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Wm. B. E. A.
A
PRACTICAL TREATISE

Almon ON *Stewart*

THE CRIMINAL LAW.

VOLUME IV.

CONTAINING *S.*

**PRECEDENTS OF PRACTICAL FORMS,
WITH NOTES, &c.**

PHILADELPHIA :

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VIA FOLIO CHOCOLATE

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CHAPTER I.

THERE ARE NO FORMS APPLICABLE TO THIS CHAPTER.

CHAPTER II.

INFORMATIONS, SUMMONS, WARRANTS, SUPERSEDEAS, AND
OTHER PROCEEDINGS BETWEEN ACCUSATION AND EX-
AMINATION OF OFFENDER.

MIDDLESEX, (to wit.) The information and complaint of ^{Usual form}
A. B., of Hammersmith in the county of Middlesex, yeoman, ^{of informa-}
taken and made on the oath of the said A. B., before me E. ^{tion for a}
F., esquire, one of his majesty's justices of the peace, in and ^{criminal of}
for the said county, on the first day of January, in the year of ^{fence. (a)}
our Lord, eighteen hundred and sixteen, who on his oath
saith, that [*here state the subject matter of the offence, as in the*
following forms, observing the rules as to the mode of framing
the information, ante I. Vol. 31. The offence may in general be
described as in the following warrants and commitments, or as
in an indictment, though more concisely than the latter, and if
the offence be properly stated, the same description will suf-
fice in the warrant.] And thereupon, he the said A. B. pray-
eth that justice may be done in the premises. (b) A. B.
Exhibited before me, E. F.

Middlesex, (to wit.) Be it remembered, that on the first ^{The like in}
day of January, in the year of our Lord, eighteen hundred ^{another}
^{form. (c.)}

(a) As to the form and requi-
sites of the information, see ante
1 vol. 31. This is the usual print-
ed form of information, see Burn,
J. Felony, Sect. IV. Toone, 156.
The forms sometimes vary, see
the following precedents; but the
above may be safely adopted in
Crim. Law.

all cases.

(b) The conclusion, post 2.
with a prayer that a warrant may
be issued, seems proper.

(c) See forms Williams, J. Fe-
lony, X. Burn, J. Highways,
Turnpike, d. Toone, Man. 158.
77. See form and notes, supra.

VOL. IV.

A

[* 2] and sixteen, at Hammersmith,* in the county of Middlesex, A. B. of — in the said county, yeoman, in his proper person, cometh before me E. F. esquire, one of his majesty's justices of the peace, in and for the said county, and upon his oath, maketh complaint, that, [*here state the substance of the offence as directed in the last precedent.*] And thereupon he the said A. B. prayeth that justice may be done in the premises. A. B.
Before me, E. F.

The like before two justices. (d) Middlesex, (to wit). Be it remembered, that on this first day of January, in the year of our Lord eighteen hundred and sixteen, at Hammersmith, in the county of Middlesex, A. B. of, &c. yeoman, cometh before us, E. F. and G. H. esquires, two of his majesty's justices of the peace in and for the said county, and giveth us to understand and be informed, that, [*here state the substance of the offence as directed in preceding forms.*] And thereupon the said A. B. prayeth the judgment of us in the premises, and that our warrant may issue against the said C. D. to answer the premises. Exhibited before us, E. F. G. H. A. B.

Form of information at Police Office Southwark, for obtaining goods by false pretences, on 30 Geo. II. c. 24. s. 1.

Police office, Union hall, Southwark, Established pursuant to acts of parliament 32 Geo. III. cap. 53, and 36 Geo. III. cap. 75. Surrey, (to wit). Be it remembered, that on this — day of —, one thousand eight hundred and —, at the police office, Union hall, in the parish of St. Saviour, in the said county of Surrey, — A. B. of —, in the parish of —, in the county of Surrey, yeoman, cometh in his proper person before me, one of his majesty's justices of the peace in and for the said county of Surrey, and upon his oath complaineth, that C. D. late of the parish last aforesaid, in the county of Surrey aforesaid, did, after the twenty-ninth day of September, one thousand seven hundred and fifty-seven, to wit, on the — day of — now last past, at the parish last aforesaid, in the county of Surrey aforesaid, unlawfully, knowingly, and designedly by false pretences, obtain from one G. H. one, &c. [*describe the property as in an indictment for false pretences,*] of the monies, goods, wares, and merchandize, of the said G. H. with intent to cheat and defraud the said G. H. of the same; contrary to the statute, &c. A. B.
Taken and sworn the day and year first above written, before me, E. F.

The like for larceny.

Police office, Union hall, Southwark. Established pursuant to act of parliament, 42 Geo. III. Surrey. The information and complaint of A. B. of the parish of — in the county of Surrey, esquire, taken this

— day of — in* the year of our Lord one thousand eight hundred and sixteen, before me, one of his majesty's justices of the peace for the said county, [* 3]
 Who, being upon oath, says, that on the — day of — now last past, at the parish of — in the said county, [*twenty silk handkerchiefs,*] of the goods and chattels of this informant, were feloniously stolen, taken, and carried away; and that he hath just cause to suspect, and doth suspect, and verily believes that C. D. late of the parish last aforesaid, in the county aforesaid, labourer, did then and there feloniously steal, take and carry away the same, against the peace, &c. And thereupon this informant prayeth me, the said justice, to issue my warrant to apprehend the said offender, in order that he may be dealt with according to law, and justice done in the premises. A. B.
 Taken and sworn the day and year first above written, before E. F.

Middlesex, (to wit). Be it remembered, that the first day of January, in the year of our Lord one thousand eight hundred and sixteen, at — in the said county, A. B. of — in the said county, and C. D. of — in the said county, severally came before me E. F. esquire, one of his majesty's justices of the peace, in and for the said county, and upon their several corporal oaths, gave me, the said justice, to understand and be informed, that on Sunday last, being the — day of — instant, one G. H. of — yeoman, willingly and of purpose maliciously and contemptuously, did come into (f) a certain chapel of his majesty's protestant subjects, dissenting from the church of England, permitted by act of parliament, and duly licensed and registered according to law, situate at — in the said county, and by shouting with a loud voice during the time of divine service there, [*or as the fact is*] did disquiet and disturb the congregation therein assembled, contrary to the statute in such case made and provided; therefore the said A. B. and C. D. pray of me that such proceedings may thereupon be had against the said G. H. for the said offence, as the statute in that behalf made doth require. A. B.
 Exhibited before me E. F. C. D.

A. B. of — yeoman, maketh oath, and saith, that on the — day of — instant at Isleworth, in the county of Middlesex; C. D. of — labourer, did violently assault, Information of two persons on 1 W. and M. c. 18. s. 18. for disturbing a licensed dissenting congregation. (g)

(e) Toone Man. 359. See the indictments on the Toleration Act, 5 Term Repts. 542, et ante 24 to 34, and 52 Geo. III. c. 155; s. 12, &c. which extends the remedy.

(f) If the information be on 52 Geo. III. c. 155. s. 12. this allegation does not seem necessary, ante 2d vol. 24, 28.

(g) Toone Man. 41.

[* 4] and beat this deponent, by* striking him with his fists, several blows on the head, face, and other parts of his body. A. B. Sworn, &c. this — day of — one thousand eight hundred and twelve, before E. F. one of his majesty's justices of the peace, in and for the county of Middlesex. E. F.

The like for an affray. (h) A. B. of New Brentford in the county of Middlesex, baker, maketh oath, and saith that on the first day of January, in the year of our Lord one thousand eight hundred and sixteen, C. D. of New Brentford aforesaid, labourer, and E. F. of the same place, yeoman, and G. H. of the same place, gardener, did in a tumultuous manner, and with force and arms, make an affray, to the terror of his majesty's subjects, then and there being, wherein the said A. B. was assaulted, beaten, and abused by the said C. D. E. F. and G. H. without any just and reasonable cause. A. B. Sworn, &c.

For larceny from dwelling house. (i) [Commencement as ante 1 or 2.] that yesterday in the night or early in the morning of this day, divers goods of him, the said A. B. (to wit,) &c. were feloniously stolen, taken, and carried away from the house of him the said A. B. at Hammersmith, aforesaid, in the county aforesaid, and that he hath just cause to suspect and doth suspect that C. D. of — labourer, feloniously did steal, take, and carry away the same. [Conclusion as ante 1 or 2.]

The like for horse stealing. (h) [Commencement as ante 1 or 2.] That on, &c. on the night or early in the morning of — a black gelding, the property of — the said — was feloniously stolen, taken, and carried away, from and out of the grounds of — the said — at —, and that he hath cause to suspect, and doth suspect that — of — labourer, feloniously did steal, take, and lead away the same. [Conclude as ante 1 or 2.]

Information to ground a warrant for apprehending a principal and an accessory before the fact in burglary. (l) A. B. of Isleworth, in the county of Middlesex, yeoman, maketh oath and saith, that on Monday, the first day of January last, his dwelling house, situate in the parish of Isleworth, in the said county, was about the hour of nine in the night of the same day, feloniously and burglariously broken and entered, by some person or persons, and that four silver table spoons, his property, were then and there feloniously stolen; and that he hath just cause to suspect, and doth suspect, that C. D. late of Isleworth, aforesaid, labourer, did commit the said felony and burglary; and that E. F. late of Isleworth, aforesaid, labourer, did advise, aid, and abet the said C. D. in the said felony. A. B. Sworn, &c.

(h) Toone's Manual, 8.

(k) Shuttlew. 13.

(i) See form, Burn, J. Felony, sect. IV. Toone Man. 156.

(l) Toone's Man. 1.

[*Commencement as ante 2 in the information before two Jus- For arson.*
tices.] That one C. D. on the — day of — in the year^(m)
 of our* Lord — unlawfully, maliciously and voluntarily, [* 5]
 and feloniously, against the statute in that case made and
 provided, set fire to, and burned the dwelling house of A. B.
 situate at — in the county aforesaid. [*Conclusion as ante 2.*]

In the King's Bench. The King v. D. H. and J. L. Affidavit to
 J. A. of, &c. yeoman, and A. M. of, &c. yeoman, officers of ground a
 his majesty's customs, in the port of London, jointly and Judge's war-
 severally make oath and say, and first this deponent A. M. rant to ap-
 for himself, saith, that, &c. [*here state the facts particularly to* person who
be sworn to by this deponent.] And this deponent, the said J. had obstruct-
 A. for himself, saith, that, &c. [*here state the matter he par-* ed a revenue
ticularly deposes to.] And these deponents further say, that officer. (n)
 the defendants appeared to be the principal ringleaders and
 abettors, in obstructing them in the execution of their duty,
 and also in rescuing the said noble after seizure. J. A.
 A. M.

Sworn by both deponents at Guildhall, this — day of Information
 — before N. G. to obtain a

Middlesex, (to wit.) Be it remembered, that this — search war-
 day of — in the year of our Lord — A. B. of — rant for sto-
 in the county of — yeoman, in his proper person cometh len goods. (o)
 before me E. F., esquire, one of his majesty's justices of the
 peace, in and for the said county; and upon oath, maketh
 complaint, that on the — day of — [*or within —*
days, as the case may be,] last past; divers goods and chattels
 of him the said A. B., of the value of —, that is to say, &c.
 were feloniously stolen, taken, and carried away, from and
 out of the dwelling-house of him, the said A. B., situated at
 — aforesaid, in the county aforesaid, by some person or
 persons unknown, and that he hath just and reasonable cause
 to suspect, and doth suspect, that the said goods and chattels,
 or some part thereof, are concealed in the dwelling-house of
 C. D. of — in the said county, labourer, for he the said
 A. B. upon his oath aforesaid, doth depose and say, that [*here*
set forth the grounds of suspicion that the same may appear to
be reasonable,] and thereupon, he the said A. B. prayeth that
 justice may be done in the premises. A. B.
 Before me, E. F.

Middlesex, (to wit.) The information of A. B. of — The like is a
 more modern
 form. (p)

(m) Toone's Man. 77.

(n) See form. 4 Went. 488.
 quære as to the title of the affi-
 davit.

(o) Williams, J. Search War-
 rant. The forms of the informa-
 tion vary, as ante 1 and 2. See
 the next precedent, which is more

modern. As to the requisites of
 this information, see ante 1 vol.
 65. Williams, J. Search War-
 rant. Burn, J. Search Warrant.

(p) This is the form used at
 the Public Office, Bow Street, see
 last precedent, and ante 1 vol. 64,
 5.

[* 6] in the parish of ——— in the county of Middlesex, ——— taken before me C. D., esquire, one of his majesty's justices of the peace, acting* in and for the said county, this ——— day of ——— in the year of our Lord ———, who being upon oath, saith that there has been lately stolen from his [*dwelling-house or premises, &c. as the case may be,*] one coat, his property, and that from information he hath received, he hath reason to suspect and believe, and doth suspect and believe, that the said stolen property is now knowingly concealed in the dwelling-house or premises of E. F., situate at ——— in the said county. A. B.
Sworn before me, this ——— day of ——— C. D.

The like in
another
form. (g)

Middlesex, (to wit.) The information and complaint of A. B. of ———, in the county of Middlesex, labourer, made on oath before me, E. F., one of his majesty's justices of the peace for the said county, the ——— day of ———, who saith that the following goods, to wit, [*describe the goods stolen,*] have by some person or persons unknown, within ten days last past, been feloniously taken, stolen, and carried away out of his dwelling house, (or out-house as the case may be,) situate at ——— aforesaid, in the county aforesaid, and that he hath probable cause to suspect, and doth suspect that the said goods, or part thereof, are concealed in the house (or as the fact is) of C. D. at ——— in the said county. A. B.
Taken before me, E. F.

The like at
Police Office,
Union Hall.

Police Office, Union Hall, Southwark.
Established pursuant to acts of Parliament, 32 Geo. III. Cap. 53, and 36 Geo. III. Cap. 75.

Surrey, (to wit.) The Information of A. B. of the parish of ———, in the county of Surrey, taken this ——— day of ——— before me, one of his majesty's justices of the peace, in and for the said county,
Who, being upon oath, says, that the following goods, namely, &c. [*here describe the property as in an indictment, ante, 2d Vol.*] the property of the said A. B. have been feloniously stolen, taken, and carried away, at the parish aforesaid, in the county aforesaid; and that he the said A. B. hath probable and just cause to suspect, and doth suspect, and verily believes, that the said goods, or part thereof, are concealed in the messuage of G. H. of ———, in the parish of ———, in the said county: and this informant doth therefore pray that I may issue my warrant to search for the said goods in the premises aforesaid. A. B.
Taken and sworn the day and year first above written, before E. F.

Middlesex, (to wit.) Be it remembered this 1st day of January, in the year of our Lord 1816, A. B. of ———, in the county of Middlesex, yeoman, a credible witness in that behalf, cometh before* E. F. esquire, one of his majesty's justices of the peace, in and for the said county, and upon oath saith, that he hath just and reasonable cause to suspect, and doth suspect that C. D. of ———, is concerned in the counterfeiting of *[as the fact is, adopting the words of the act which authorizes the search,]* in a certain dwelling house situate at ———, for the said A. B. upon his oath, aforesaid, doth depose and say, that *[set forth the cause of suspicion that the same may appear reasonable.]* A. B.
Sworn before me E. F.

London, (to wit.) The information and complaint of Lewis Balan, secretary of legation to his Prussian majesty, resident at No. 8, Gloucester Street, Mary-le-bone, Who being upon oath says that he has just cause to suspect and believe, and doth suspect and believe that Peter Solomon, otherwise Peter Simpson, residing at No. 135, Leadenhall street, in the city of London, hath lately been concerned in making and counterfeiting certain false and counterfeit coin, made with intent to resemble and look like certain silver coin of the king of Prussia. L. B.

Information
for forging
foreign coin
on 37 Geo.
III. c. 127. s.
7. (s)

Police Office, Union Hall, Southwark,
Established pursuant to act of Parliament, 42 Geo. III.

The like for
stolen lead,
iron, &c. on
29 Car. II. c.
30. s. 30.

Surrey. The information and complaint of A. B. of ———, in the county of Surrey, taken before me, one of his majesty's justices of the peace in and for the said county, this ——— day of ———, A. D. ———,

Who being a credible person, upon his oath, says, that he hath cause to suspect, and doth suspect that stolen lead, iron, copper, brass, bell metal, and solder is concealed in the dwelling-house, out-house, yard, garden, or other place of G. H. in ———, in the parish of ———, in the said county of Surrey, contrary to an act of Parliament, made and passed in the twenty-ninth year of the reign of his late majesty king George the Second, intituled, "an act for the more effectually discouraging and preventing the stealing and the buying and receiving of stolen lead, iron, copper, brass, bell metal, and solder; and for more effectually bringing the offenders to justice."

A. B.

Taken and sworn the day and year first above written, before E. F.

(r) Williams, J. Coin. Sect. II. 103 to 121.
Toone Man. 95. See indictments for offences against coin. Ante
(s) This is a form used at the Public Office, Bow Street.

The like for
goods stolen
on board
ship in
Thames on

2 Geo. III. c.
8. s. 7.

[* 8]

Police Office, Union Hall, Southwark.

Established pursuant to acts of Parliament 32 Geo. III. cap.
53, and 36 Geo. III. cap. 75.

Surrey. The information and complaint of A. B. of —, in
the* county of Surrey, taken before me, (one of his majes-
ty's justices of the peace in and for the said county,) this
— day of —,

Who, being a credible person, upon his oath, says, that he
hath cause to suspect and doth suspect that certain merchan-
dizes, goods, stores, and things, (suspected to have been stol-
en or unlawfully come by, or taken from some ship or vessel
in the river Thames,) namely, a large quantity of —, are
concealed in the dwelling-house, warehouse, yard, garden, or
other place of —, in —, in the parish of —, in the said
county of Surry, contrary to an act of Parliament, made and
passed in the second year of his present majesty king George
the third, intituled, "an act to prevent the committing of
"thefts and frauds by persons navigating bumb boats, and
"other boats, upon the river Thames." A. B.

Taken and sworn the day and year above written, before
E. F.

Notice of
Inhabitants
of St. Paul's,
Covent Gar-
den, to Con-
stable of
said parish
to enter into
a recogni-
zance to pro-
secute for
keeping a
disorderly
house. (t)

To James Gardner, one of the constables of the parish of
St. Paul, Covent Garden, within the liberty of Westminster
in the county of Middlesex.

We, Henry Robins, Charles Richardson, John Wake, and
Robert Joy, inhabitants of the parish of St. Paul, Covent
Garden, paying scot and bearing lot therein, do hereby give
you notice that a woman named Martha Conway, doth keep
a disorderly house at No. 15 in the Great Piazza, Covent
Garden, in the said parish, against the peace, &c.

We, therefore, the said inhabitants, require you, the said
constable, to go with us, the said inhabitants, before Nicho-
las Bond, esquire, one of his majesty's justices of the peace
for the said county of Middlesex, and presiding at the public
office in Bow Street, in order to enter into a recognizance to
prosecute the law with effect against the said Martha Con-
way for the offence aforesaid, at the next general session of
the peace, to be held for the said county.

Given under our hands this thirteenth day of May, one
thousand eight hundred and six.

H. Robins,

J. Wake,

Charles Richardson, Robert Joy.

Justice's cer-
tificate
thereon.

I do hereby certify that the before named constable and in-
habitants appeared before me this day, and entered into the
recognizance prescribed by law. Given under my hand this

thirteenth day of May, one thousand eight hundred and six.
N. Bond.

Public Office,* Bow Street.

[*King's Arms.*] The 1st day of January, 1816.

Middlesex and Westminster, (to wit.) Whereas information and complaint upon oath have been this day made before me E. F. esquire, one of his majesty's justices of the peace, in and for the said county, city and liberty, by A. B. of —, in the said county, that you, C. D. of, &c. [*here state substance of the charge, as in the informations ante 3 & 4, and in the warrants and commitments post.*] contrary to the statute, &c.

These are therefore in his majesty's name to will and require you personally, to be and appear before me the said justice, at the office aforesaid, or such other justice or justices of the peace as shall be then and there sitting, to answer the — premises, as the law directs.

Given under my hand and seal the day and year above written.
E. F. (L. S.)

Police Office, Union Hall, Southwark.

Established pursuant to acts of Parliament, 32 Geo. III. Cap. 53, and 36 Geo. III. Cap. 75. [*King's Arms.*]

Surrey, (to wit.) To G. H. [*the party accused*] Whereas complaint and information have been this day made before me E. F. esq. (one of his majesty's justices of the peace in and for the said county) by A. B. for that, [*state crime or offence charged.*] These are, therefore, in his majesty's name, to will and require you personally to be and appear before me, or such other justice or justices as shall be present at the police office aforesaid, on, &c. at one o'clock in the forenoon, then and there to answer the premises, as the law directs.— Given under my hand the — day of —, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

To the constable of the parish of — in the county of Middlesex.

Middlesex, (to wit.) Forasmuch as A. B. of — in the said county of Middlesex, yeoman, hath this day made information and complaint upon oath before me E. F. esquire, one of his majesty's justices of the peace in and for the said county of Middlesex, that [*here state the nature and circumstances of*

[* 9]
Usual printed form of summons at office, Bow Street. (u)

The like at Police Office, Union Hall.

Usual form of summons by other magistrates. (w)

(u) See when a summons should be issued, ante 1 vol. 32. Toone's Man. 402, S. Dick. J. Summons, and Burn. J. Highways, Turnpike. Forms. e. As to summons in general see ante 1 vol. p. 32.

(w) This is the usual printed form of summons to party accused. It varies from the forms in *Crim. Law.*

the supposed offence as in the information or mittimus post.]
 These are therefore to command you in his said Majesty's name forthwith to summon the said C. D. to appear before
 [* 10] me at ——— in the said county,* on Monday, the ——— day of ——— at the hour of ——— in the forenoon of the same day, to answer unto the said complaint, and further to do and receive what to law doth appertain. And be you then and there to certify what you shall have done in execution hereof. Herein fail you not. Given under my hand and seal the ——— day of ——— in the year of our Lord one thousand eight hundred and sixteen.
 E. F. (L. S.)

The like in
 another
 form. (x)

To the constable of the parish of ——— in the county of Middlesex.

Middlesex, (to wit.) Whereas complaint and information have been made upon oath, before me E. F. esquire, one of his majesty's justices of the peace for the said county, by A. B. of ——— that C. D. [*set forth the complaint.*] These are therefore to command you forthwith to summon the said C. D. to appear before me, or such other of his majesty's justices of the peace for the said county as shall be present at the ——— in the said county, on ——— the ——— day of ——— at ——— o'clock in the forenoon, then and there to answer to the said complaint and information, made by the said A. B. who is likewise directed to be present to make good the same. Herein fail not. Given under my hand and seal, this ——— day of ——— in the year of our Lord one thousand eight hundred and twelve.
 E. F.

The like in
 another
 form where
 information
 not on oath.
 (y)

To the constable of the parish of ——— in the county of Middlesex.

Middlesex, (to wit.) You are hereby required, on sight hereof, to summon and warn C. D. of your said parish, personally to be and appear before me E. F. esquire, or such other of his majesty's justices of the peace for the said county of Middlesex, as shall be present at ——— in the said county, on ——— the ——— day of ——— next, at ——— o'clock in the forenoon, then and there to answer to the complaint and information of C. D. [*state the complaint.*] And you the said constable are then and there to appear, and make your return of your due execution hereof. Herein fail not at your peril. Given under my hand and seal, this ——— day of ——— in the year of our Lord, one thousand eight hundred and sixteen.
 E. F.

(x) See the form Toone's Man. 403. This form is prescribed by Highway Act in certain cases, see 13 Geo. III. c. 78. Schedule XXXIII.

(y) See form Toone's Man.

402. It appears from 2 T. R. 225. that where there is no offence charged on oath, it is most prudent to issue a summons. See also ante 1 vol. page 32.

The within named C. D. was duly summoned to appear and answer as he is within required, on — the — day of — in the year of our Lord one thousand eight hundred and sixteen, by me, G. H. constable.

Return of
constable to
preceding
summons.
(z)

Public Office*, Bow Street.
[*King's Arms.*]

Common
printed war-
rant, used at
Bow street
office (a)

To all constables, and other his majesty's officers of the peace for the said county, city, and liberty, whom these may concern.

[* 11]

Middlesex, city and liberty of Westminster, to wit. These are in his majesty's name to command you and every of you, upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace, in and for the said county, city, and liberty, the body of C. D. [*or if his name be not known, then describe him as minutely as the nature of the case will allow, as "the body of a man whose name is unknown but whose person is well known, and who is employed as the driver of cattle, and wears a badge, No. 573." (b) or say, "the body of a man whose name is at present unknown, but whose person can be identified,"*] of whom you shall have notice to answer all such matters and things, as on his majesty's behalf shall on oath be objected against him by A. B. [*here state concisely the substance of the offence charged upon the party, and which may be described as in the forms post 12, &c. or in the forms of commitments post, &c. The charge is usually introduced thus "for having on, &c." or "for assaulting, &c." or "for keeping, &c." or "on suspicion of wilfully, maliciously, and feloniously assaulting, &c." or "for that, &c." The latter, when the charge is of any considerable length, seems preferable, and the offence may be described as in an indictment. Conclude as follows.*] Hereof fail not at your peril. Given under my hand and seal this first day of January, in the year of our Lord one thousand eight hundred and sixteen. E. F. (L. S.)

Police office, Union hall, Southwark,
Established pursuant to acts of parliament 32 Geo. III. cap.
53, and 36 Geo. III. cap. 75.

The like at
Police Office,
Union Hall,
to apprehend
for false pre-
tences on 30
Geo. 2, c. 24.
5. 1. (c)

Surrey, (to wit.) To all constables, and other his majesty's officers of the peace, whom these may concern.

These are, in his majesty's name, to command you, and

(z) See form Toone's Man. 402.

Geo. III. c. 75, See forms Dak. J. c. 174. page 548.

(a) This is the common form used at the Police Offices in the Metropolis. See the other forms used in other counties post 12, &c. As to the form and requisites of the warrant in general, see 1 vol. 33 to 38. 36, 43. 32 Geo. III. c. 53. continued by 36

(b) This form was adopted by the magistrate, Mr. Graham, see ante 1 vol. 33. 1 Hale, 577.

(c) See form post 16. The indictment must shew the false pretences and negative the truth, 2 M. and S. 379.

[* 12] every of you, upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace for the said county, the body of C. D. of whom you shall have notice, to answer to all such matters* and things, as, on his majesty's behalf, shall be objected against him by A. B. &c. particularly for that, after the twenty-ninth day of September, one thousand seven hundred and fifty-seven, to wit, on the ——— day of ——— now last past, in the parish of ——— in the said county, he did unlawfully, knowingly, and designedly, by false pretences, obtain from one I. K. &c. [*describe the goods as in an indictment for false pretences,*] of the monies, goods, wares, and merchandizes, of the said I. K. with intent to cheat and defraud the said I. K. of the same; contrary to the statute, &c. Oath having been made thereof before me. Hereof fail not at your peril. Given under my hand and seal, this ——— day of ——— one thousand eight hundred and sixteen. E. F. (L. S.)

Another common printed form used in other counties or places. (d)

To the constable of the parish of ——— in the county of Middlesex.

Middlesex, (to wit.) Forasmuch as A. B. of ——— in the said county of Middlesex, yeoman, hath this day made information and complaint upon oath before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county of Middlesex.* That C. D. late of Isleworth, in the said county of Middlesex, labourer, did [*as to the mode of describing the offence, see the precedent ante 11.*] These are therefore to command you in his said majesty's name forthwith to apprehend and bring before me, or some other justice of the peace for the said county, the body of the said C. D. to answer unto the said complaint and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, the first day of January, in the year of our Lord one thousand eight hundred and sixteen. E. F. (L. S.)

The like for Burglary. (e)

[*Commencement as in last form to the asterisk, and then proceed as follows.*] That in the night of the thirty-first day of December, now last past, that is to say, between the hour of eight of the clock of that evening, and six of the clock of the next morning, the dwelling-house of him the said A. B. at ——— aforesaid, in the county aforesaid, was feloniously and burglariously broken open, and one silver tankard of the value of five pounds, of the goods and chattels of him the said A. B. feloniously and burglariously was stolen, taken, and carried away, from thence. And that he hath just cause to

(d) This is the usual modern form. The forms vary in Burn, J. Warrant, IV. Williams, J. Arrest. V. Dalt. J. ch. 174, where see a great variety of forms.

(e) This is the usual modern form. See also Burn, J. Burglary, IV. Dick, J. Burglary, III. Toone, 75.

suspect and doth suspect that C. D. late of Isleworth, in the county aforesaid, labourer, and G. H. late of Isleworth aforesaid, in the county aforesaid, labourer, the said felony and burglary did commit. These are therefore, &c. [*Conclusion as in last form.*]

To* the constable of the parish of —, in the county of ^{Warrant on} Middlesex. ^{1 W. and M. c 18. s 18. to}

Middlesex, (to wit.) Whereas A. B. clerk, officiating ^{apprehend a} minister of the parish church of —, in the said county of ^{person for} Middlesex, and C. D. one of the church wardens of the said ^{disturbing} parish, have this day made complaint on their several oaths ^{the congreg-} before me, E. F. esquire, one of his majesty's justices of the ^{gation in a} peace in and for the said county, that G. H. —, late of the ^{parish} said parish of —, labourer, and I. K. late of the same ^{church. (f)} [^{* 13}] parish, yeoman, together with divers other evil disposed persons, on Sunday last, being the — day of —, in this present month of —, wilfully and of purpose did contemptuously come into the said parish church, situate in the said parish of —, in the said county of Middlesex, during the time of divine service, and did disquiet and disturb the congregation then and there assembled, by [*state the offence; see the forms of indictments, ante 2 vol. 24 to 34.*] in the said parish church, and by other noises and disturbances, preventing the said A. B. officiating minister, as aforesaid, from proceeding in the celebration of divine service. These are therefore, in his said majesty's name, to command you the said constables, forthwith to apprehend the said G. H. and I. K. and them bring before me at this place, to answer for the said offence, and to be further dealt with according to law; and you are hereby also commanded to give notice to the said G. H. and I. K. that if proof of the said offence shall be made before me the said justice, by two sufficient witnesses, on the hearing of the said complaint, then the said G. H. and I. K. will be required to find two sureties to become bound in a recognizance in the penal sum of 50*l.* conditioned for the personal appearance of the said G. H. and I. K. respectively, at the next general Quarter Sessions of the peace to be held in and for the said county, then and there to answer for the said offence, according to the form of the statute in this behalf made and provided. Given under my hand and seal, the — day of —, 1812.

E. F. (L. S.)

To the constable of the parish of —, in the county of ^{Warrant on} Middlesex. ^{25 Geo 2. c. 36. s 6 to}

Middlesex, (to wit.) Whereas A. B. and C. D. two in- ^{apprehend} ^{the keeper} ^{of a bawdy} ^{house. (g)}

(f) See forms Toone, 358, & 52 and form of information ante 3. Geo. III. c. 155, s. 12, &c. and in- (g) See form, Toone, 61, and dictments ante 2 Vol. 24 to 34. form of notice, ante 8.

* 14] habitant householders of the parish of —, in the said county, have this day severally made complaint upon oath, before me, E. F. esquire, one of his majesty's justices of the peace acting in and for the said county, that G. H. of the said parish, labourer, keeps a house of ill-fame, and that lewd women frequently resort thither with men of dissolute* lives, to the great scandal of the neighbourhood, the encouragement of vice and debauchery, and against the king's peace. These are, therefore, in his majesty's name, to command you to bring the said G. H. before me, at —, on —, the — day of — next, at — o'clock in the forenoon, to answer to the complaint of the said C. D. and E. F. and to be further dealt with according to law. Given under my hand and seal, the — day of —, A. D. 1816. E. F. (L. S.)

Form of a justice's warrant to apprehend for a misdemeanour in concealing a felony. (h)

Norfolk. These are in his majesty's name, strictly to charge and command you and every of you presently upon sight hereof to apprehend the body of T. W. late of B. in the said county, and him so taken forthwith to bring before me to my house in W. in the said county, there to answer as well to a certain concealment of felony, as also to answer other notorious misdemeanours by him committed, whereof I am credibly informed; and hereof fail you not at your peril. Given under my hand and seal, at W. aforesaid, this 4th day of June, 1643.

Warrant for an assault and battery. (i)

To all bailiffs, constables, and others, his majesty's officers and ministers, to whom these presents shall come or any way concern.

[Commencement as in common form ante 12.] That C. D. late of Isleworth, in the said county, labourer, did on the morning of Monday the 1st day of this instant January, violently assault and beat him the said A. B. in his the said A. B.'s dwelling-house, at Isleworth aforesaid. These are therefore, &c. [Conclusion as in common form ante 12.]

To the constable of the parish of —, in the county of Middlesex.

Warrant for an affray. (k)

Middlesex, (to wit.) Whereas A. B. of —, yeoman, hath this day made oath before me E. F. esquire, one of his majesty's justices of the peace for the said county, that on the first day of January, in the year of our lord one thousand eight hundred and sixteen, C. D. of —, yeoman, and G. H. of —, yeoman, at —, in the said county, in a tumultuous manner made an affray, wherein the person of the said A. B. was beaten and abused by them the said

(h) Vide ante 1 Vol. p. 13, for what offences a warrant may be issued before indictment. This form is from the valuable MS. precedents of Mr. Anguish, p. 4.

(i) See forms, Burn, J. Assault,

IV. Williams, J. Assault and Batteries, IV. Toone, 41.

(k) This is the usual printed form. See also, Burn, J. Affray, V. Williams, J. Affray, IV.

Toone, 8.

C. D. and G. H. without any lawful cause or sufficient provocation given to them or to any or either of them, by him the said A. B. These are therefore to command you forthwith to apprehend the said C. D. and G. H. and bring them before me or some other* of his said majesty's justices of the peace for the said county, to answer the premises, and to find sureties as well for their personal appearance at the next general Quarter Sessions of the peace, to be holden for the said county, then and there to answer to an indictment to be preferred against them by the said A. B. for the said offence, as also for their keeping the peace in the mean time towards his said majesty and all his liege people, and especially towards him the said A. B. Hereof fail not, as you will answer the contrary at your peril. Given under my hand and seal at —, in the said county, the 1st day of January, in the year of our Lord one thousand eight hundred and sixteen. [* 15]

E. F. (L. S.)

[*King's Arms.*] [*Commencement as in common form ante 12.*] Warrant for feloniously stealing goods. (l)

That on this present day, divers goods and chattels of him the said A. B. that is to say, [*enumerate the property stolen,*] have feloniously been stolen, taken, and carried away, from the house of him the said A. B. situate at —, aforesaid, in the county aforesaid: and that he hath just cause to suspect and doth suspect that C. D. late of —, in the said county, yeoman, did feloniously steal, take, and carry away the same, [*or otherwise as the case may have been.*] These are therefore, &c. [*conclusion as in common form ante 12.*]

[*Commencement as in common form ante 12.*] That yesterday, The like to apprehend a horse stealer. (m)
day, in the night, a bay mare, the property of him the said A. B. was feloniously stolen, taken and carried away from and out of the grounds of him the said A. B. at —, aforesaid, and that he hath just cause to suspect and doth suspect that C. D. late of —, in the said county, labourer, did feloniously steal, take, and carry away the said mare. These are therefore, &c. [*conclusion as in common form ante 12.*]

[*Commencement as in common form ante 12.*] That yesterday, Ditto when the horse stealing amounted to a burglary. (n)
in the night, the stable of him the said A. B. adjoining to the dwelling-house of him the said A. B. at —, aforesaid, was feloniously and burglariously broken open, and one black mare, the property of him the said A. B. feloniously and burglariously stolen, taken, and carried away from thence, and that he hath just cause to suspect and doth suspect that C. D. late of —, in the county aforesaid, labourer, the said felony and burglary did commit. These are therefore, &c. [*Conclusion as in common form ante 12.*]

(l) This is the usual modern form. See also, Burn, J. Felony, p. 462. (m) Burn, J. Horses, VI. IV. Dick, J. Felony, III. The Toone, 238. See information, form in Williams, J. Felony, X. ante 4. (n) Burn, J. Horses, VI. Toone, is nearly similar. See also, Toone, 157, 248. Dalt. J. ch. 174; 238.

Warrant on
Stat. 33 Hen.
VIII. c. 1 by
two Justices
to apprehend
a person ac-
cused of ob-
taining
goods, &c.
by a false
token. (o)
[* 16]

To the constable of the parish of —, in the county of Middlesex.

Middlesex,* (to wit.) Whereas complaint hath been made unto us whose names and seals are hereunto set, two of his majesty's justices of the peace for the said county, and one of us, to wit, I. K. is of the quorum, upon the oaths of A. B. of —, yeoman, and C. D. of —, yeoman, that on the — day of —, E. F. of —, yeoman, did by a false privy token, (*or counterfeit letter,*) that is to say, by, &c. [*Here particularize the offence.*] falsely and deceitfully obtain and get into his hands and possession [*here mention the things*] from G. H. of —, contrary to the statute in that case made. There are therefore, &c. [*Conclusion as in common form ante 12.*]

Warrant on
30 Geo II. c.
24. s. 1. for
obtaining
money under
false preten-
ces. (p).

[*Commencement as in common form as ante 12.*] That C. D. did on the — day of —, knowingly, designedly, and under a certain false pretence, obtain from him the said A. B. at —, in the county aforesaid, the sum of twenty shillings, the proper monies of him the said A. B. with intent to cheat and defraud him thereof, against the form of the statute in that case made and provided. These are therefore, &c. [*Conclusion as in common form ante 12.*]

To the constable of —.

Warrant to
apprehend
an accessory
after the
fact, for har-
bouring the
principal. (q)

Middlesex, (to wit.) Whereas C. D. of —, stands charged before me E. F. esquire, one of his majesty's justices of the peace in and for the said county, on the oath of A. B. with having [*state the offence as in the information*]. And whereas G. H. hath this day also made oath before me, that I. K. of Isleworth, aforesaid, yeoman, since the said felony and burglary was committed, hath received, harboured, and maintained the said C. D. in the dwelling house of him the said I. K. at Isleworth, aforesaid; he the said I. K. well knowing the said C. D. to have committed the said felony and burglary. These are therefore to command you forthwith to apprehend and bring before me at this place, the body of the said I. K. to answer to the said charge, and to be further dealt with according to law. Given under my hand

(o) See form Burn, J. Cheat. Toone, 87. The statute 33 Hen. VIII. c. 1. requires warrant by *two* Justices, one being of the quorum. See form on statute 30 Geo. II. c. 24. s. 1. ante 11.

(p) See form ante 11. and Toone, 87. It may be better more strictly to adopt the language of the Indictment for such offence. Ante 2nd Vol. It

should seem that the warrant need not shew the false pretences, though this must be done in an indictment 2 M. and S. 379.

(q) This is the form in Toone 3, but it should seem that a warrant against an accessory may be in the same form as against a principal, ante 4, describing the offence of the accessory, as in the indictments ante 2 Vol. page 5.

and seal, at ———, in the said county, this ——— day of ———,
A. D. 1816. E. F. (L. S.)

[*Commencement in common form as ante 12.*] That, &c. [*here state the facts as in information ante 1,*] and also that the said A. B. hath* cause to suspect and doth suspect that G. H. of Isleworth, in the said county, labourer, hath feloniously bought and received the said silver spoons, knowing the same to have been feloniously stolen. These are therefore, &c. [*Conclusion in common form as ante 12.*]

Warrant to apprehend an accessory after the fact, for receiving stolen goods. (r)

To the constable of the parish of ———, in the county of Middlesex.

[* 17]

Middlesex, (to wit.) Whereas A. B. of ———, hath this day made complaint on oath before us, E. F. and G. H. esquires, two of his majesty's justices of the peace in and for the said county, that [*state the offence as in the information ante 4.*] These are therefore to command you forthwith to apprehend and bring before us at ———, at the hour of ——— in the forenoon, the body of the said C. D. to answer the said complaint and to be further dealt with according to law. Given under our hands and seals this ——— day of ———, A. D. ———.

Warrant of two Justices for Arson. (s)

E. F. (L. S.)

G. H. (L. S.)

County of ———, (to wit.) George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith and so forth, to our sheriff of our county of ———, the high constable of the hundred of ———, the petty constables of the town of ———, and to all and singular our bailiffs and other ministers in the said county, greeting, For as much as O. P. of ———, in the said county, yeoman, hath personally come before A. B. and other our justices assigned to keep the peace within the county aforesaid, and also to hear and determine divers felonies, trespasses and other misdemeanours, in the said county committed, and hath taken a corporal oath that the said O. P. is afraid that D. D. in the said county, yeoman, will beat ("wound, maim, or kill") him, (or "burn his house,") and hath prayed surety of the peace (or "of the good behaviour," if it be so) against him the said D. D. Therefore, we command and charge you jointly and severally, that immediately upon receipt hereof, you omit not by reason of any liberty within the county aforesaid, but that you take the aforesaid D. D. if he can be found in the county aforesaid, and bring him before the said A. B. and other our justices, so as aforesaid assigned, to keep the peace within our county aforesaid, if they shall be then sitting; and if not then, before some one or more of our said justices in and for our county aforesaid, to find sufficient surety and mainprize, as well for his

Warrant by Justices at Quarter Sessions, for breaking the peace. (t)

(r) See form Toone, 4.

(s) See form, Toone, 77.

(t) As to who may issue warrants, and their form, and requisites, see ante 1 Vol. 34, 38, &c. Dick. Sess. 142.

[* 18] personal appearance at the next general Quarter Sessions of our peace, to be holden at —, or elsewhere, in and for the said county, as also for* our peace in the mean time to be kept towards us and all our liege people, and more especially towards the said O. P. that is to say, that the said D. D. shall not do, nor by any means procure or cause to be done, any of the said evils to any of our said people, and particularly to the said O. P. (or if it is for the good behaviour, “as also for his good behaviour in the mean time towards us and all our liege people, and more especially towards him the said O. P. &c. &c.”)

Judge's warrant to apprehend persons who had obstructed revenue officers. (u)

England, (to wit.) Whereas it appears unto me by the affidavit of J. A. and A. M. officers of his majesty's customs in the port of London, that on the sixth day of May last, J. L. did assault and obstruct the said J. A. and A. M. in the due execution of their said office :

These are therefore to will and require, and in his majesty's name strictly to charge and command you and every one of you on sight hereof, to apprehend and take the body of the said J. L. and bring him before me or one other of the judges of his majesty's court of King's Bench, if taken in or near the cities of London or Westminster, if elsewhere, before some justice of the peace near to the place where he shall be herewith taken, to the end that the said J. L. may become bound with two sufficient securities, that is to say, the said J. L. in the sum of one hundred pounds, and the two sureties in the sum of fifty pounds each, for the appearance of the said J. L. in his majesty's court of King's Bench, at Westminster, on the first day of next Michaelmas term, to answer to all and singular indictments or informations against him for assaulting and obstructing the said J—— A——, and A—— M——, or either of them, in the due execution of their office, or in case the said J. L. shall refuse or neglect to become bound as aforesaid, that he may be committed to the common gaol of the county, city or place where he shall be apprehended by virtue hereof, there to remain till he shall become bound as aforesaid, or shall he discharged by order of his majesty's court of King's Bench in term time, or by one of the judges of the said court in vacation ; hereof fail not at your peril. Given under my hand and seal, the twenty-first day of July, in the year of our Lord 1789.

N. G. (L. S.)

To W. R. my tipstaff of the court of King's Bench, and all chief and petty constables, headboroughs, tythingmen, and all others it may concern.

Public Office, Bow-street.

Warrant of one of the Commissioners under the

[*Here are printed the king's arms.*] To all constables and others his majesty's officers of the peace for the county of

(u) See ante 1 Vol. 36. and form of affidavit ante 5. form 4 Wentw. 489, and see

Middlesex and city and liberty of Westminster, whom these may concern, and especially to W. A.

Admiralty* of England, (to wit.) These are in his majesty's name, to command you and every of you upon sight hereof, to take and bring before me one of the commissioners of Oyer and Terminer for the jurisdiction of the Admiralty of England, the body of I. B. E. late captain of his majesty's sloop N——, of whom you shall have notice to answer all such matters and things as on his majesty's behalf are on oath objected against him by T. A. Quarter master, and others, on suspicion of having been guilty of the wilful murder of G. H. a seaman on board the said sloop, at Curacoa, in the West Indies, and on the high seas, within the jurisdiction of the admiralty of England, against the peace, &c. Hereof fail not at your peril. Given under my hand and seal, this — day of —, in the year of our Lord one thousand eight hundred and —.

admiralty
commission
to apprehend
a person for
suspicion of
murder on
the high
seas. (w)
[* 19]

E. F. (L. S.)

Public Office, Bow-street.

To all constables and other his majesty's officers of the peace, whom these may concern.

Admiralty of England, (to wit.) These are in his majesty's name to command you and every of you upon sight hereof, to take and bring before me or some other of his majesty's commissioners for the jurisdiction of the Admiralty of England, the body of P. L. of whom you shall have notice to answer all such matters and things as in his majesty's behalf are on oath objected against him by J. S. for violently assaulting, beating, and bruising him on the 28th day of February last, on board a certain ship called the Commerce, of London, on the high seas, within the jurisdiction of the Admiralty of England aforesaid, against the peace and against the statute, &c. Hereof fail not at your peril. Given under my hand and seal this 26th day of September, in the year of our Lord one thousand eight hundred and three.

The like for
an assault,
battery, and
bruising on
the high
seas.

E. F. (L. S.)

George Montagu Dunk, earl of Halifax, Viscount Sunbury, and Baron Halifax, one of the lords of his majesty's most honourable privy council, lieutenant general of his majesty's forces, and principal secretary of state. These are in his majesty's name to authorize and require you, taking a constable to your assistance, to make strict and diligent search for the authors, printers, and publishers of a seditious and treasonable paper, entitled The North Briton, Number XLV. Saturday, April 23, 1769, printed for G. K. in Ludgate-street, London, and them or any of them having found, to apprehend and seize, together with their papers, and to bring in safe custody before me, to be examined concerning the

Secretary of
State's war-
rant. (x)

(w) Vide ante 1 Vol. 14. 39
Geo. III. c. 37. As to Warrants
in general, see 1 Vol. 33, and seq.

(x) See 1 Vol. 34. The above
form was held good. 2 Wils. 151.
See form Fortescue, 140.

[* 20] premises, and further dealt with according to law; and in the due execution thereof,* all mayors, sheriffs, justices of the peace, constables, and all other his majesty's officers civil and military, and loving subjects, whom it may concern, are to be aiding and assisting to you as there shall be occasion; and for so doing this shall be your warrant. Given at St. James's, the 26th day of April, in the third year of his majesty's reign. D. H.

To N. C. J. M. J. W. and R. B. four of his majesty's messengers in ordinary.

OF BACKING WARRANTS. Essex, (to wit.) Forasmuch as proof upon oath, hath been made before me, G. H. esquire, one of his majesty's justices of the peace for the said county of Essex, that the name E. F. is of the hand-writing of the justice of the peace within mentioned. I do hereby authorize I. K. who bringeth to me this warrant, and all other persons to whom the said warrant is directed, to execute the same, within the said county of Essex. Given under my hand the second day of January, in the year of our Lord one thousand eight hundred and sixteen. G. H. (L. S.)

The like in another form used in London. London, (to wit.) To all constables and others, his majesty's officers of the peace, in and for the said city and liberties thereof, whom these may concern.

Let the within warrant be executed in this city and liberties thereof. Proof, upon oath, having been made before me, to the hand-writing of the within named magistrate, to the within warrant. Given under my hand and seal, this twenty-seventh day of December, in the year of our Lord one thousand eight hundred and eleven.

C. S. Hunter, Mayor. (Seal.)

Backing of a Bow street warrant, by a Kent magistrate. Kent, (to wit.) To all constables and other his majesty's officers of the peace for the said county, whom these may concern.

Let this warrant be executed in the said county, proof upon oath having been made before me of the due signing thereof, by the within named magistrate. Given under my hand and seal, this first day of November, in the year of our Lord one thousand eight hundred and six. E. F. (L. S.)

SEARCH WARRANTS.
The form of a common

Public-office, Bow street, (or "Police-office, Union street, Southwark.") [*here the king's arms are printed.*]

To all constables, and other his majesty's officers of the peace for the said county, whom these may concern.

(y) As to backing warrants, see statute 24 Geo. II. c. 55. and ante 1 Vol. 36, 45. The statute does not appear to require so full

a form. See forms Burn, J. Warrant, V. Williams, J. Arrests, VI. Dick. J. Warrant, V.

Middlesex, (or when at police-office, Union street, "Sur-
rey," to wit.) Whereas complaint upon oath hath been this
day made unto me,* one of his majesty's justices of the peace
for the said county, by A. B. of — in the said county,
that there were lately stolen from him the said A. B. certain
goods of him the said A. B. that is to say, [*here state the*
property stolen,] and that there is just cause to suspect that the
said stolen goods (a) are knowingly concealed in the dwell-
ling-house of C. D. situate at — in the said county. These
are, therefore, to require you forthwith to make diligent
search in the day-time in the said dwelling-house for the
said stolen goods; and if you find the same, or any part
thereof, that you then secure the said stolen goods, and bring
the person or persons in whose custody you find the same,
before me, or some other of his majesty's justices of the
peace, for the said county, (b) to be examined and dealt with
according to law. Given under my hand and seal, the first
day of January, one thousand eight hundred and sixteen.

E. F. (L. S.)

To the constable of the parish of — in the county of
Essex.

Essex, to (wit.) Whereas it appears to me E. F. esquire,
one of the justices of our lord the king, assigned to keep the
peace within the said county, by the information on oath of
A. B. of — in the said county, yeoman; that the follow-
ing goods, to wit, [*describe the stolen articles accurately,*] have
within — days last past, by some person or persons un-
known been feloniously stolen, taken, and carried away out
of the house [*or barn, &c. according to the fact,*] of the said
A. B. at — aforesaid, in the county aforesaid; and that
the said A. B. hath probable cause to suspect, and doth sus-
pect, that the said goods and chattels are concealed in the
dwelling-house of C. D. of — in the said county, labourer.
These are therefore in the name of our said lord the king, to
authorise and require you, with necessary and proper assist-
ants, to enter in the day time (d) into the said dwelling-house
of the said C. D. at — aforesaid, in the county afore-
said, and there diligently search for the said goods; and if the
same, or any part thereof, shall be found upon such search,
that you bring the goods so found, and also the body of the

(z) See 22 Geo. III. c. 58. s. 2. As to search warrants in general, see ante 1 vol. 64, &c.

(a) In the form used at the Police Office, Union Street, the words "or part thereof" are here inserted, and the word "knowingly" is omitted.

(b) In form used at the Police Office, Union Street, these words

are here inserted, "who shall be at the office aforesaid."

(c) As to search warrants in general, see ante 1 vol. 64. See forms Toone, 378. Williams, J. Search Warrant. Burn, Search Warrant. Dick. J. Search Warrant. 2 Bos. and Pul. 159.

(d) 22 Geo. III. c. 58. s. 2.

said C. D. before me, or some other of the justices of our said lord the king, assigned to keep the peace in the county aforesaid, to be disposed of and dealt with according to law. Given under my hand and seal at — in the said county, the first day* of January, in the year of our Lord one thousand eight hundred and sixteen. E. F. (L. S.)

[* 22]
Search Warrant from Police Office, Shadwell, for goods stolen from on board ship in the Thames, and to bring up offender. (e)

Public-office, High street, Shadwell.

Established pursuant to act of parliament. [*King's Arms.*]
To all constables, and other his majesty's officers of the peace, whom these may concern.

Middlesex, (to wit.) Whereas information upon oath hath been this day made unto me, one of his majesty's justices of the peace for the said county, by A. B. of — yeoman, a credible person, that he hath just cause to suspect, and doth suspect, that divers merchandize, goods, stores, or things, suspected to have been stolen or unlawfully come by, or taken from some ship or vessel in the river Thames, are concealed in the dwelling house, warehouse, outhouse, yard, garden, or other place, of C. D. of, &c. in — in the parish of — in the said county, contrary to the statute, &c. These are therefore to require you forthwith to make diligent search in the day time, in the said dwelling-house, warehouse, outhouse, yard, garden, or other place, for the said merchandize, goods, stores, or things: and if you find the same, or any part thereof, that then you secure the same in some place of safety, and cause the person or persons in whose custody you find the same, to appear before me, or some other of his majesty's justices of the peace for the said county, to be examined and dealt with according to law. Given under my hand and seal, the — day of — one thousand eight hundred and sixteen.

Public-office, Bow-street.

Warrant to search for instruments for coining silver coin of this realm, and to seize offender. (f)

To all constables, and other his majesty's officers of the peace for the said county, whom these may concern.

Middlesex, (to wit.) Whereas complaint upon oath hath been this day made unto me, one of his majesty's justices of the peace for the said county, by W. S. one of the patrol belonging to the public office, Bow street, that there is just cause to suspect and believe that one J. S. who resides at the corner of Hemlock court, Ship yard, in the parish of — in the county of Middlesex, hath in his custody and possession, hid and concealed in a certain room occupied by him up one pair of stairs in the said house, divers tools and instruments, used and designed for coining and counterfeiting the silver monies of this realm, (he the said J. S. not being a person employed in the mint, nor having the said tools

(e) Ante 1 vol. 64. 2 Geo. III. Geo. III. c. 40. W. and M. ante c. 28. s. 7. 2 vol. 102 to 121.

(f) See ante 1 vol. 64. 11

and instruments by any lawful authority.) These are therefore to require you forthwith to make diligent search in the day-time, in the said room, for the said tools and instruments, and if you find the same, or* any part thereof, that you then secure the same, and bring the person in whose custody you find the same, before me, or some other of his majesty's justices of the peace for the said county, to be examined and dealt with according to law. Given under my hand and seal, the 19th December, 1810. [* 23]

Public office, Bow-street.

To all constables, and other his majesty's officers of the peace for the said county, whom these may concern.

Middlesex, (to wit.) Whereas complaint upon oath hath been this day made unto me, one of his majesty's justices of the peace, for the said county, by —, that there is just cause to suspect that L. B. of No. 35, &c. is and hath been concerned in making and counterfeiting certain false coin, made with intent to resemble and look like the silver coin of a foreign prince, (to wit,) the king of Prussia. These are therefore to require you forthwith to make diligent search in the said dwelling-house of the said L. B. situate as above, for any such false and counterfeit coin, and if you find any such false and counterfeit coin, the said L. B. not having the same by some lawful authority; and if you find the same, or any part thereof, that you then secure, and bring the same before me, or some other of his majesty's justices of the peace for the said county, to be dealt with according to law. Given under my hand and seal, the 26th day of June, 1805.

The like to
search for
counterfeited
foreign coin
of Prussia,
&c. (g)

To the constable of the parish of — in the county of Middlesex.

Middlesex, (to wit.) Whereas A. B. of — in the said county of Middlesex, yeoman, a credible witness in that behalf, hath this day made complaint upon oath before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, that he hath just and reasonable cause to suspect, and doth suspect, that C. D. of — is concerned in the counterfeiting of, [*state the offence according to the words of the act,*] in a certain dwelling-house situate at —. These are therefore, in his majesty's name to authorise and require you with necessary and proper assistants to enter in the day-time into the said dwelling-house of the said C. D. at — aforesaid, and there diligently to search for such false or counterfeit — and all tools or implements and materials for making or coining any such false or counterfeit —, and if the same, or any of them shall be found on such search, you are to bring the same and every of them

Search War-
rant against
Coiner in
another form
(h)

(g) Ante 2 vol. 102 to 121. forms Williams, J. Coin. Toone,
(h) See ante 1 vol. 64, and 95.

{ * 24]

so found before me, or some other of the justices of our said lord the king, assigned to keep the peace in and for the county aforesaid, in order that the same may be secured and produced* in evidence against the said C. D. and such other person or persons who shall or may be prosecuted for the offence aforesaid, according to the statute in that behalf made and provided. Given under my hand and seal, on this 1st day of January, 1816.

E. F. (L.S.)

Search War-
rant for sto-
len lead, &c.
(i)

[*King's Arms.*] Public office, Bow street.

To all constables and other his majesty's officers of the peace, whom these may concern.

Middlesex, city and liberty of Westminster, (to wit,) Whereas complaint upon oath hath this day been made unto me, one of his majesty's justices of the peace for the said county, city and liberty, by A. B. of, &c. that he hath cause to suspect, and doth suspect, that stolen lead, iron, copper, brass, bell-metal or solder is concealed in the dwelling-house, out-house, yard, garden, or other place or places, of C. D. of the parish of — in the said county of Middlesex, contrary to the statute in that case made and provided. These are, therefore, to require you forthwith to make diligent search in the day-time in the said dwelling-house, out-house, yard, garden, and place, for the said lead, iron, copper, brass, bell-metal, or solder, suspected to be stolen; and if you find the same or any part thereof, that then you bring the same and the person or persons in whose custody you find the same, before any two of his majesty's justices of the peace for the said county, city and liberty, to be examined and dealt with according to law. Given under my hand and seal, the first day of January, one thousand eight hundred and sixteen.

E. F. (L. S.)

To search
for stolen
wood, on 15.
Car. c. 2. (k)

[*King's Arms.*] To the constable of —, in the county of Essex.

Essex, (to wit.) Forasmuch as A. B. of — in the parish of — in the said county, yeoman, hath this day made oath before me E. F. esquire, one of his majesty's justices of the peace in and for the said county, that divers quantities of wood within the space of six weeks now last past, have been cut, taken, and carried away, off and from his lands at — in the parish of — aforesaid, in the said county, contrary to the statute in that behalf made; and that he hath just cause to suspect, and doth suspect, that the said wood, or some part thereof, is concealed in the

(i) Ante 1 vol. 64. This war- "Middlesex," and omitting "City
rant is founded on 29 Geo. 2. c. and liberty"
80. s. 2. The form at Shadwell (k) The form depends on the
Police Office is the same, insert- statute 15 Car. II. c. 2. See
ing, as the venue, in the margin, Burn, J. Wood. See 1 vol. 64.

house, out-houses, yards, gardens, or other places belonging to such house of C. D. of — in the parish and county aforesaid, labourer, situate and being at — aforesaid, in the parish and county aforesaid. These are therefore to require you to enter into and search the* said house, out-houses, yards, gardens, or other places belonging to such house of the said C. D. at — aforesaid, in the parish and county aforesaid. And if on such search you shall there find any such wood; that then you apprehend the said C. D. and bring him before me, or some other of his said majesty's justices of the peace for the said county, that such proceedings may be had thereupon, as to law doth appertain. Given under my hand and seal, at — aforesaid, in the said county, the first day of January, in the year of our Lord one thousand eight hundred and sixteen.

[* 25]

E. F. (L. S.)

To the constable of the parish of — in the county of Essex.

To search for Venison and Engines, on 16 Geo 3. c. 30 (l)

Essex, (to wit.) Whereas A. B. of — in the said county, yeoman, hath this day made oath before me E. F. esquire, one of his majesty's justices of the peace in and for the said county, that there is reason to suspect, that C. D. of — in the said county, taylor, hath in his custody or possession, or in his dwelling-house, out-house, yard, garden, or other place, at — aforesaid, a deer, which hath been unlawfully killed, or the head, skin, or other thereof; as also divers slips, nooses, toyles, snares, and other engines, or some of them for the unlawful taking of deer. These are therefore to require you that you do forthwith search him the said C. D. and his said dwelling-house, out-house, yard, garden or place, at — aforesaid; and if on such search you shall find any deer, suspected to have been unlawfully killed, or the head, skin, or other part thereof, or any slip, noose, toyle, snare, or other engine, suspected to be used for the unlawful taking or killing of deer, that you bring the same, and also him the said C. D. before me, or some other of his majesty's justices of the peace for the said county, to be examined concerning the premises and further dealt with according to law. Herein fail not. Given under my hand and seal, the first day of January, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

To G. H. gentleman, constable, and to the several petty constables of the said county of Middlesex.

General privy search warrant from Bow street. (m)

Middlesex, (to wit.) We, whose names are hereunto set, and seals affixed, being two of his majesty's justices of the peace, residing in, and acting for, the said county, do, in

(l) See ante 1 vol. 64, and forms Burn, J. Game, &c. Vagrants. C. and Dick. J. Vagrants, IX. Ante 1 vol. 65.

(m) See another form of warrant for Privy Search, Burn, J. Vagrants. C. and Dick. J. Vagrants, IX. Ante 1 vol. 65. *Crim. Law.*

[* 26]

his majesty's name, and in pursuance of the directions of the statute, command you, the said constable and petty constables, and every of you, to make a general privy search throughout the parishes of ——— and within the* said county, on ——— night next ensuing the date hereof, for the finding and apprehending of all rogues and vagabonds, and idle and disorderly persons, and all such rogues and vagabonds and idle and disorderly persons, as, upon such search, you shall find and apprehend, you are hereby required to bring before us, at the public office, in Bow street, Covent Garden, at ten o'clock the ensuing morning, in order for their examination, and that they may be dealt with as is prescribed by the said statute. Herein fail not, as you will answer the contrary at your peril. Given under our hands and seals, the first day of January, one thousand eight hundred and sixteen.

G. H. (L. S.)

I. K. (L. S.)

[*King's Arms.*]

The like in
another
form from
Surrey Of-
fice. (n)

Surrey, (to wit.) To ——— high constable, and to the several petty constables, and other peace-officers, within the ——— division in the said county.

We whose names are hereunto set, and seals affixed, being two of his majesty's justices of the peace in and for the said county, do, in his majesty's name, and in pursuance of the statute in that case made and provided, command you the said high constable, petty constables, and other peace officers, and every of you, assisted with sufficient men of the same place, to make a general privy search throughout the said division, in the night of the ——— day of ——— next ensuing the date hereof, for the finding and apprehending of all rogues and vagabonds, and idle and disorderly persons, that you shall find in the said division; and all such rogues and vagabonds, and idle and disorderly persons, as upon search you shall find and apprehend, you are hereby required to bring before us, or such other of his majesty's justices of the peace as shall be then and there assembled at the ——— at ten o'clock the ensuing morning, in order for their examination, and that they may be dealt with according to law. Hereof fail not. Given under our hands and seals, the ——— day of ——— in the year of our Lord one thousand eight hundred and sixteen.

G. H. (L. S.)

I. K. (L. S.)

The like in
a more com-
prehensive
form.

Police Office, Union Hall, Southwark, established pursuant to Acts of Parliament 32 Geo. III. cap. 53, & 36 Geo. III. c. 75.

[*King's Arms.*]

East Brixton and Southwark, in the county of Surrey. To the constables, headboroughs, and other his majesty's of-

(n) See last precedent, and ante 1 vol. 64.

ficers of the peace, of the parish of ———, in the said county.

These are, in his majesty's name, and in pursuance of the statutes in* that case made and provided, strictly to charge and command you and every of you, taking to your assistance a sufficient number of men, to make a general privy search throughout your said parish, in the night of ———, the ——— day of ———, for all persons who, not having wherewith to maintain themselves, live idle and without employment, and refuse to work; all fencers and bearwards; all common players of interludes, not being authorised by law; all minstrels, jugglers; all persons pretending to be gypsies, or to have skill in physiognomy, palmistry, or like crafty science, or using any subtle craft to deceive and impose on any of his majesty's subjects, or playing or betting at any unlawful games or plays; all persons wandering abroad and lodging in ale-houses, barns, out-houses, or in the open air, not giving a good account of themselves; all persons wandering and begging; all ill-disposed and suspected persons, persons of evil fame, reputed thieves, frequenting the avenues to places of public resort, and the streets and highways, with intent to commit felony on the persons and property of his majesty's subjects there being; and all other loose, idle, and disorderly persons, who shall be found offending against the laws and statutes made for the preservation of his majesty's peace. And that all such persons as you, and every of you, shall upon search find, you are to apprehend and secure, and bring before us, or some other of his majesty's justices of the peace for the said county, as shall be sitting at the office aforesaid, at ——— of the clock the ensuing morning, in order that they may be examined, and dealt with according to law. Given under our hands and seals, at the office aforesaid, this ——— day of ———, 180 .

At the time and place within mentioned, for making a Return return to the within precept, we, the persons to whom the thereto, same is directed, do, in obedience thereto, and in execution thereof, present, &c. [*Here state what has been done by officer.*]

[*King's Arms.*]

Middlesex, (to wit.) To the high constables, petty constables, headboroughs, and other peace officers in the ———, in the county of Middlesex, and to all others whom it may concern. Another form.

These are in his majesty's name, to will and require you, in the night after the receipt hereof, to make a general privy search throughout your several and respective limits (assisted with sufficient men of the same place), for the finding and apprehending of rogues and vagabonds, and idle and disorderly persons. And moreover, in pursuance of his

[* 28]

majesty's command, signified by an order of council of the seventh day of March, 1803, directed to the Costos Rotulorum of the county of Middlesex, setting forth, That his majesty's service doth at this time require a speedy supply of seamen and seafaring men, to man his majesty's fleet, which is* now fitting out: You are hereby strictly enjoined to be particularly attentive in such search, to take up all straggling seamen who are fit to serve on board his majesty's ships. And all such persons as you shall so find and take up, you are on —, the — day of —, at — of the clock in the — noon, to bring before us, and others our fellow justices, at — to be respectively dealt with according to law, and according to the directions contained in the said order of council. Given under our hands and seals, at —, this — day of —, one thousand eight hundred and three.

Another
form.

[*King's Arms.*] Police Office, Union Hall, Southwark. East Brixton and Southwark, in the county of Surrey. To all and every the churchwardens, overseers of the poor, constables, and headboroughs, of the parish of —, in the division and county aforesaid.

By virtue and in pursuance of the powers and authorities given to us, —, justices of our sovereign lord the king, assigned to keep the peace in the county of Surrey; and also to hear and determine divers felonies, trespasses, and other misdemeanours, committed in the said county: We do hereby require you, each and every of you, personally to appear before us, or such other of his majesty's justices assigned to keep the peace in the said county, at a petty sessions appointed to be held for this division, against the next general Quarter Sessions, at the Police Office, Union Hall, Southwark, on Friday, the — day of —, at the hour of 12 o'clock at noon, in the said county; then and there to answer to your names severally; and to present all public nuisances, and annoyances, which you shall know within your said parish; all and every person who profane the Lord's day, either by gaming, sporting or tippling, in public houses; or by using and exercising their several and respective trades, or ordinary callings; or any other act, matter, and thing, tending to encourage vice, lewdness, profaneness, and immorality, on that day: And for that purpose you are to make strict and diligent search throughout your said parish, on the Sunday immediately preceding the said petty sessions, and at all other proper and convenient times and seasons, whereby offenders may be discovered; and your best endeavours used to discountenance and prevent the growing evil of profaning the Lord's day, which is now so much practised, and that day abused. You are also to search at convenient times, all places within the weekly bills of mortality in your parish, where swine are bred, fed, or kept at the back side of any paved street where the houses are contiguous: and all swine

so found to seize, take, drive, and carry away; and the same to sell for the best price that can be had, and the money to be distributed by you, the said churchwardens and overseers, to the poor of the said parish: and the name or names of* the person or persons so keeping the same you are to return to the said justices at their said petty sessions: together with the names of all persons keeping disorderly houses, or common lodging houses for lewd persons in your parish; and all persons, making, encouraging, or occasioning any riots, routs, or unlawful assemblies, whereby his majesty's peace or the public tranquillity may be broke or disturbed; and all other matters and things presentable at this petty sessions, which shall come to your knowledge, information and belief; to the end that the said justices may take such methods and means in the premises, as to law doth appertain: And hereof you, or any of you, are not to fail, on pain of being returned to the said Quarter Sessions for a contempt and misdemeanour. Given under our hands and seals, at a public meeting of the justices, held at the office aforesaid, this — day of —.

[* 29]

Essex, (to wit.) The examination of A. B. of, &c. taken on oath before me, one of his majesty's justices of the peace for the said county, dwelling in the hundred of —, within the said county, the 1st day of January, in the year of our Lord one thousand eight hundred and sixteen, who saith, that on this 1st day of January, between the hours of eleven in the forenoon and three in the afternoon of the same day, at or near a place called —, he was assaulted in the highway there leading from Brentwood to Chelmsford, by three persons whose names and persons were and are unknown to him the said A. B. and by them robbed in the highway aforesaid, of one gold watch, and three bank of England notes for one pound each; and that he the said A. B. at the time of the said robbery committed, did not know, nor doth yet know, the names, or persons, or residence, or place of resort of the said persons who committed the same: And that he is since informed, that the said highway and place where he was so robbed as aforesaid, are in the parish of —, and within the hundred of —, in the said county. Taken, made, and signed, the day and year above written, before me, G. H. Westmorland.] To all constables and other officers, as well in the said county of Westmorland, as elsewhere, to whom the execution hereof doth or shall belong.

WARRANTS
ON HUE AND
CRY.
Information
or examina-
tion of a par-
ty robbed on
highway,
either to ob-
tain warrant
for hue and
cry, or pro-
ceed against
hundred. (p)

Warrant to
levy hue and
cry on a rob-
bery having

Whereas A. T. of —, in the county of —, yeoman, hath this day made information upon oath before me, J. P. esquire, one of his majesty's justices of the peace in and

(p) As to the requisites of the information, see ante 1 vol. 28.

been com-
mitted. (q)

[* 30]

for the said county of W——, that on this present — day of —, in the — year of the reign of —, betwixt the hours of three and four in the* afternoon of the same day, at a place called —, in the said county of W——, in the king's highway there, two malefactors and felons to him the said A. T. unknown, in and upon him the said A. T. then and there being in the peace of God and of our lord the king feloniously did make an assault, and him the said A. T. then and there feloniously did put in great fear and danger of his life, and the sum of L. — of lawful money of Great Britain, of the goods and chattels of him the said A. T. from the person and against the will of him the said A. T. then and there violently and feloniously did steal, take, and carry away, and that one of the said malefactors and felons to him the said A. T. unknown, is a tall, strong man, and seemeth to be about the age of — years, is pitted in the face with the small pox, and hath the scar of a wound under his left eye; and had there on a dark brown riding coat, &c. and did ride upon a bay gelding with a star on his forehead, and the other, &c.; and that after the said felony and robbery committed, they the said malefactors and felons to him the said A. T. unknown, did fly and withdraw themselves to places unknown, and are not yet apprehended; these are therefore to command you forthwith to raise the power of the towns within your several precincts, and to make diligent search therein for the persons above described; and to make fresh pursuit and hue and cry after them, from town to town, and from county to county, as well by horsemen as by footmen; and to give due notice thereof in writing, describing in such notice the persons and the offence aforesaid, unto every next constable on every side, until they shall come to the sea shore, or until the said malefactors and felons shall be apprehended; and all persons whom you or any of you shall, as well upon such search and pursuit as otherwise, apprehend or cause to be apprehended; as justly suspected for having committed the said robbery and felony, that you do carry forthwith before some one of his said majesty's justices of the peace, in and for the county where he or they shall be so apprehended, to be by such justice examined, and dealt with according to law. And hereof fail you not respectively, upon the peril that shall ensue thereon. Given under my hand and seal, at —, in the said county of W——, the — day of — aforesaid, in the year aforesaid. J. P. (L. S.)

The like in
another form
after house-
robbers. (r)

Norfolk. Whereas complaint hath been made unto me by T. G. of L. in the county of Norfolk, husbandman, that, upon Wednesday, at night, last, being the 20th day of this instant,

(q) Burn, J. Tit. hue and cry. 31.
Mr. Anguish's MS. p. 2. As to
this warrant, in general, and the
proceedings, see ante 1 vol. 27 to

(r) See last precedent, and
notes, and ante 1 vol. 27 to 31.

June, he was robbed of certain linen, taken out of his house, with some other things, as, &c. And that he hath manifest cause of suspicion of one A. T. a lewd rogue, a straight made fellow, aged 24 years, or* thereabouts, apparelled in a leather or black hat, and russet stockings, with black curled hair on his head, and a little on his face. These are therefore, in his majesty's name, to require you, and every of you to make search within your several precincts for the said A. T. and also to make hue and cry after him from town to town, and from county to county, and that as well by horsemen as footmen, and if you shall find him the said A. T. that then you carry him before me, or some one of his majesty's justices of the peace, within the county where he shall be taken, by him to be dealt withal, according to law. Hereof fail you not at your utmost perils. Given under my hand and seal, at W. within the said county, this, &c. . G. H. (L. S.)

[* 31]

To all constables and others his majesty's officers, as well within the said county of N. as elsewhere within the realm of England.

The like to make hue and cry after a felon, who lately escaped from gaol. (s)

Norfolk. Forasmuch as complaint hath this day been made unto me by H. H. one of the constables of ——— in the said county, that one J. B. late of L. in the county of Suffolk, labourer, of the age of 17 years, or thereabouts, of a low stature, having on no hair upon his face, apparelled in a short cloth coat, and cloth hose of a sad colour, with a pair of russet boots, committed yesternight to *his* custody by my warrant, to convey him to his majesty's gaol at the castle of Norwich, for several felonies by him committed and confessed, hath forcibly rescued himself from and out of the custody of the said H. H. and hath escaped and gone at large. These are therefore, in his majesty's name, to require you and every of you to make diligent search within your several precincts for the said J. B. and also to make inquiry and cry after him, from town to town, and from county to county, and that as well by horsemen as footmen, and if you shall find him the said J. B. that you forthwith carry him before some one of his majesty's justices of the peace, within the county where he shall be taken, by him to be dealt withal according to law. Hereof fail you not at your utmost perils. Given under my hand and seal, at W. in the said county, this 30th day of May, A. D. 1641. G. H.

To all constables and other his majesty's officers, as well within the said county as without.

Middlesex, (to wit.) To all constables, headboroughs, and all other his majesty's officers of the peace for the said county, whom these may concern:

SUPERSEDEAS
BEFORE AR-
REST.
Supersedeas

(s) This is an old form from cedent ante 29 and notes, and 1 Mr. Anguish's MS. 2. See pre- vol. 27 to 31.

or order not
to arrest for
an assault,
Defendant
having found
sureties to
appear at
sessions. (s)
[* 32]

Whereas C. D. has this day found sufficient sureties before me, E. F.* esquire, one of his majesty's justices of the peace for the said county, for his personal appearance at the next general Quarter Sessions of the peace, to be holden at the session-house, Clerkenwell, in and for the said county, then and there to answer the complaint of A. B. for assaulting and beating him. These are therefore, in his majesty's name, to charge and command you and every of you immediately, on sight hereof, not to arrest, imprison, molest, or any otherwise detain the body of the said C. D. for by reason or means of the fact above mentioned, and no other. And this shall be to you, each, and every of you, a sufficient warrant. Given under my hand and seal the 1st day of January, in the year of our Lord 1816. E. F. (L. S.)

[*King's Arms.*]

The like in
another
form. (u)

Essex, (to wit.) E. F. one of his majesty's justices of the peace for the county of Essex aforesaid:

To the sheriff, bailiff, constables, and others, the faithful ministers and subjects of our said lord the king within the county of Essex, and to every of them, Greeting.

Forasmuch as C. D. of ——— in the said county, yeoman, hath personally come before me at ——— in the said county, and hath found sufficient sureties, that is to say, J. K. of ——— and L. M. of ——— either of the which hath undertaken for the said C. D. under the pain of 20 pounds, and he the said C. D. hath undertaken for himself, under the pain of 40 pounds, that he the said C. D. shall personally appear at the next General Quarter Sessions of the peace to be holden in and for the said county, then and there to do and receive what shall be enjoined him by the said court; and in the mean time shall well and truly keep the peace, (or "be of good behaviour,") as well towards his said majesty as towards all his liege people, and especially towards A. B. of ——— in the said county, yeoman. Therefore on the behalf of our said lord the king, I do command you and every of you, that you utterly forbear and suspend (w) to arrest, take, imprison, or otherwise by any means, for the said cause, to molest the said C. D. and if you have, for the said occasion and for none other, taken or imprisoned the said C. D. that then him you deliver or cause to be delivered and set

(t) As to the law and practice, see ante 1 vol. 46, 7, and the forms referred to id. note c. Cro. C. C. 8th ed. 17. Burn, J. Surety for the peace V. Dalt. J. ch. 175, page 475, and ch. 193. p. 531. The supersedeas is good, though it does not name the sureties or the sum, but it is said to be better to state both as in the next pre-

cedent. Dalt. J. ch. 175, page 475.

(u) See the last precedent and notes. This form seems preferable to the first, and is usually adopted by magistrates, in the country.

(w) In some precedents "surcease."

at liberty, without further delay. Given at ——— aforesaid, in the county aforesaid, under my hand and seal this 1st day of January, in the year of our Lord 1816. E. F. (L. S.)

CHAPTER* III.

[* 33]

COMMITMENTS FOR FURTHER EXAMINATION.—SUMMONS, WARRANTS, AND COMMITMENTS OF WITNESSES.—EXAMINATIONS OF PROSECUTOR, WITNESSES, AND PRISONER.—RECOGNIZANCES TO PROSECUTE AND GIVE EVIDENCE, AND TO PAY EXTRA COSTS.—RECOGNIZANCES TO APPEAR.—COMMITMENTS.—HABEAS CORPUS, AND INCIDENTAL PROCEEDINGS.

Public Office, Bow Street.

To the keeper of the New Prison in Clerkenwell, or his deputy.

Middlesex, (to wit.) Receive into your custody the body of C. D. herewith sent you, brought before me, E. F. esq. one of his majesty's justices of the peace in and for the said county, [sometimes is here inserted "by G. H. constable of ———"] and charged before me, the said justice, upon the oath of E. F. on suspicion of feloniously* stealing, taking, and carrying away one gold seal, his property, against the peace, &c. him, therefore, safely keep in your said custody for further examination on Monday next, and until he shall be dis-

COMMITMENT
FOR FURTHER
EXAMINATION. (a)

[* 34]

(a) As to commitments for further examination, see ante 1 vol. 73, and 4. The above is the usual form adopted at the Police Office, Bow Street. See also Burn, J. Commitment, VII. Williams, J. Commitment, V. Dick.

It seems not to be necessary to state the offence in this temporary commitment. Bac. Ab. Trespass, D. 3. See a preferable form, post, appendix.

charged by due course of law, and for so doing this shall be your sufficient warrant. Given under my hand and seal, this 1st day of January, 1816. E. F. (L. S.)

The like in another form for six days of a person charged on suspicion of felony. Receive, &c. R. I. charged by R. D. on suspicion of having committed several felonies and highway robberies, he, the said R. I. upon his being so charged, not making it appear to us, the said justices, that he hath a lawful way of getting his livelihood, and doth not procure some responsible house-keeper to appear to his character, or to give security for his appearance before us, the said justices, contrary to the statute, &c. Him, therefore, safely keep in your custody for the space of six days to be then brought up before us the said justices, at the rotation office in Litchfield Street, to be re-examined. Given, &c.

Order to bring prisoner up for examination. (b) [*Here the king's arms are printed.*] Public Office, Bow Street. First day of January, 1816. To the keeper of the New Prison at Clerkenwell, or his deputy.

You are hereby required to bring C. D. a prisoner in your custody, to this Office, for examination before me.

E. F. Sitting Magistrate.

SUMMONS
AND OTHER
PROCESS
AGAINST
WITNESSES.
Summons
from Police
Office, Bow
street, to a
witness to
attend to
give evi-
dence (c)

[* 35]

Public Office, Bow Street, Covent Garden.

The 1st day of January, A. D. 1816.

Middlesex, and Westminster, to wit. Whereas complaint (or "information on oath") has been this day made before me, E. F. esquire, one of his majesty's justices of the peace for the said county, city, and liberty, that a certain felony [*Here state nature of offence to the effect in the information.*] has lately been committed, touching which you can give material evidence.

These* are therefore, in his majesty's name, to will and require you, personally, to be and appear before me the said justice, at the office aforesaid, on Tuesday next, at twelve o'clock at noon, or before such other justice or justices of the peace, as shall be then and there sitting to give evidence in the premises, as the law directs. Given under my hand and seal, the day and year above-written. To G. H. of _____ esquire. E. F. (L. S.)

(b) This form is adopted where defendant has been committed for examination, or further examination, and the magistrate requires him to be brought up for such further examination.

(c) As to the power of magistrates to summon witnesses, see ante 1 vol. 76. This is the usual form adopted at Bow

Street. See another form, Williams, J. Evidence, Examination. Burn, J. Examination, D. Summons, Dick. J. Examination, II. Dalt. J. ch. 174. If the inspection of a deed, letters, &c. should be material, it should seem that the witness may also be required by the summons to produce them. 9 East, 473.

Police Office, Union Hall, Southwark,
Surrey, (to wit.) to G. H. of ——— esquire.

The like
from Police
office, Uni-
on hall. (d)

Whereas information hath been this day made before me, one of his majesty's justices of the peace in and for the said county, by A. B. of ——— gentleman, that you are a material evidence in his majesty's behalf, touching a certain felony [*Here describe the felony as in last form.*] committed by C. D. of ——— labourer. These are therefore in his majesty's name, to will and require you, personally to be and appear before me, or such other of his majesty's justices of the peace for the said county, as shall be sitting at the Police Office aforesaid, on Tuesday next, at ten o'clock in the forenoon, then and there to testify the truth, and give evidence in his majesty's behalf, as the law directs.

Given under my hand the 1st day of January, in the year of our Lord 1816. E. F. (L. S.)

To the constable of the parish of ——— in the county of Essex.

The like in
another form
(e)

Essex. (to wit.) Whereas information hath been made before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, That [*Here state the charge or offence as in the information, see precedents ante 33, 4.*] and that G. H. of ——— in the said county, yeoman, is a material and necessary witness to be examined concerning the same: these are therefore to require you to summon the said G. H. to appear before me at ——— in the said county, on the 2nd day of January instant, at the hour of eleven o'clock in the forenoon of the same day, to testify the truth according to the best of his knowledge concerning the premises. And be you then there to certify what you shall have done in the execution hereof. Herein fail you not. Given under my hand and seal the 1st day of January, in the year of our Lord 1816. E. F. (L. S.)

Hertfordshire,* (to wit.) To the constable of ——— in the said county of Hertford.

[* 36]
The like in
another form
in case of
felony. (f)

Whereas oath hath been made before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county of A. B. of ——— yeoman, that he the said A. B. was lately robbed at ———, and that he hath good cause to believe that G. H. of ——— is a material witness to prove by whom the said robbery was committed. These are therefore to require you to cause the said G. H. forthwith to come

(d) See notes to last precedent.

(e) This is the modern printed form used by magistrates in the country. See another form next precedent, and the note ante 33, 4. And as to the law, see ante 1 vol. 76.

(f) This is the printed form usually adopted by magistrates in the country. See also Burn. J. Examination, D. Summons. Williams, J. Examination, IV. Evidence. Toone, 138, 157, 409. Dick. J. Examination, II. Dalt. J. ch. 174. Dick. Sess. 80.

before me, to give such information, and evidence, as he knoweth, concerning the said offence, that such further proceeding may be had therein, as to the law doth appertain. Given under my hand and seal at ——— in the said county, the 2nd day of January A. D. 1816. E. F. (L. S.)

Public Office, Bow Street.

(King's Arms.)

Warrant to bring witness to give evidence who had refused to attend in pursuance of summons. (g)

To all constables, and other his majesty's officers of the peace for the said county, city, and liberty, whom these may concern:

Middlesex, city and liberty of Westminster, (to wit.) These are in his majesty's name, to command you and every of you, upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace, for the said county, city, and liberty, the body of A. B. of whom you shall have notice, to answer all such matters and things, as on his majesty's behalf are on oath objected against him by G. H. for that he being a material witness to prove a certain felony, lately committed, and having been duly summoned to give evidence touching the same, hath neglected to appear in pursuance of the said summons, against the peace, &c. Hereof fail not at your peril. Given under my hand and seal this ——— day of ——— in the year of our Lord 1816.

E. F. (L. S.)

Warrant to bring up a person robbed who has neglected to attend to give evidence according to summons. (h)

[* 37]

Middlesex, and city, and liberty of Westminster, (to wit.) To all constables and other his majesty's officers of the peace for the said county, city, and liberty, whom these may concern.

These are in his majesty's name, to command you and every of you upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace of the said county, city, and liberty,* the body of A. B. of whom you shall have notice to answer to all such matters and things as on his majesty's behalf are on oath objected against her. It appearing to me, upon oath, that on the 2nd day of this instant July, she the said A. B. was robbed of two gowns, two coats, several aprons, and other wearing apparel, by one C. D. now in custody under my commitment, and that she is a material witness to prove the same.—And it likewise appearing to me, upon oath, that she hath been duly summoned to appear before me to give evidence touching the said felony, and that she hath made default therein. Herein fail not at your peril, Given under my hand and seal this 8th day of July, in the year of our Lord 1785.

T. G. (L. S.)

(g) The power of a Justice to issue a warrant has been doubted. See Shuttleworth's manual, 8 and 9. But it is unquestionable, ante 1 vol. 76, 7. This and the three following precedents were fram-

ed and issued by very able and experienced magistrates. See also coroner's warrants post 38, 9.

(h) See ante 34. note c. and 1 vol. 76, 7.

Public office, Bow Street.

[*Here the king's arms are printed.*] To the keeper of Tothill-fields bridewell, or his deputy.

City and liberty of Westminster, (to wit.) Receive into your custody the body of W. F. herewith sent you, brought before me J. R. esquire, one of his majesty's justices of the peace, in and for the said county, city, and liberty by S. T. For that he having admitted that he was present when a certain felony and street robbery was committed upon the person of the rev. Archdeacon C. on Friday last at the corner of Panton street, within the said liberty, hath refused to be examined on oath respecting the same. The said W. F. therefore safely keep in your custody until he shall submit to be examined, touching the said felony, (j) and for so doing this shall be your sufficient warrant.

Commitment of a witness for refusing to give evidence, he having admitted that he was present when felony was committed. (i)

Given under my hand and seal this 5th day of September, 1807.

J. R. (L. S.)

To the keeper of new prison at Clerkenwell, or his deputy. Middlesex, (to wit.) Receive into your custody the body of J. S. herewith sent you, brought before me E. F. one of his majesty's justices of the peace in and for the said county by G. H. upon whose information, taken upon oath before me, it appears that a certain felony hath been committed, touching which the said J. S. can give material evidence, and the said J. S. admitting on his examination that he knows the name and residence of the person suspected to have committed the said felony, but refusing to answer touching the same, or to disclose the name and residence of the said person, him the said J. S. thereof safely, &c. [*as in last.*]

The like in another form

To* the constables, headboroughs, and other his majesty's officers of the peace in and for the county of Essex, and also to the keeper of his majesty's gaol at Chelmsford, in the said county.

Commitment of a witness by a coroner for refusing to give evidence.

Essex, (to wit.) Whereas I heretofore issued my summons, under my hand, directed to C. D. of ———, requiring his personal appearance before me, then and now one of his majesty's coroners for the said county of Essex, at the time and place therein mentioned, to give evidence and be examined on his majesty's behalf, touching the death of A. B. then and there lying dead; of the personal services of which said summons, oath hath been duly made before me; and whereas the said C. D. having neglected and refused to appear, pursuant to the contents of the said summons, I thereupon afterwards issued my warrant, under my hand and seal,

[* 38]

(h) See ante 34. note c. and 1 vol. 76, 7. "or shall be discharged by due course of law." See forms of coroner's commitments, post 38 and 39.

(i) As to the power to commit, ante 1 vol. 76, 7. 3 M. and S. 1.

(j) Quære if not better to add

in order that the said C. D. by virtue thereof, might be apprehended and brought before me, to answer the premises.

And whereas the said C. D. in pursuance thereof hath been apprehended and brought before me, now duly sitting by virtue of my office, and hath been duly required to give evidence and be examined before me and my inquest, on his said majesty's behalf, touching the death of the said A. B. yet the said C. D. notwithstanding hath absolutely and wilfully refused, and still doth wilfully and absolutely refuse to give evidence and be examined, touching the premises, or to give sufficient reason for his refusal, in wilful and open violation and delay of justice:

These are, therefore, by virtue of my office, in his majesty's name, to charge and command you, or one of you the said constables, headboroughs, and other his majesty's officers of the peace, in and for the said county of Essex, forthwith to convey the body of the said C. D. to the gaol of Chelmsford in the said county, and safely to deliver the same to the keeper of the said prison there; and these are likewise, by virtue of my said office, in his majesty's name, to will and require you the said keeper to receive the body of the said C. D. into your custody, and him safely to keep in the prison, until he shall consent to give his evidence, and be examined before me and my inquest, on his majesty's behalf, touching the death of the said A. B. or until he shall be from thence otherwise discharged by due course of law. And for your so doing, this is your warrant.

Given under my hand and seal, this first day of January, in the year of our Lord, one thousand eight hundred and sixteen.

E. F. (L. S.)

Commitment
of a witness
by a coroner
for refusing
to sign his
informa-
tion.

[* 39]

To the constables, headboroughs, and others his majesty's officers of the peace in and for the county of Essex; and also to the keeper of his majesty's gaol at Chelmsford in the said county.

Essex, (to wit.) Whereas C. D. of the parish of —, in the said* county of Essex, is a material witness on the behalf of our sovereign lord the king, against E. F. late of the parish aforesaid, in the county aforesaid, —, now charged before me, one of his majesty's coroners for the county of Essex, and my inquest, with the wilful murder of A. B. there now lying dead; and whereas the said C. D. at this time of my inquiry, (on view of the body of the said A. B. how and by what means he the said A. B. came by his death) hath personally appeared before me, and my said inquest, and on his majesty's behalf hath given evidence and information on oath, touching the premises: which said evidence and information having by me been reduced into writing, and the contents thereof by me, in the presence of my said inquest, openly and truly read to him the said E. F. who doth acknowledge the same to be true, and that the same doth contain the full substance and effect of the evidence by him given before me

to my said inquest; and the said E. F. having by me been requested and desired to sign and set his hand to his said testimony and information, and to acknowledge the same, as by law is required, yet notwithstanding the said E. F. hath wilfully and absolutely refused, and still doth wilfully and absolutely refuse so to do, in open defiance of law, and to the great hindrance of the public justice.

These are, therefore, by virtue of my office, in his majesty's name, to charge and command you, or one of you the said constables and headboroughs, and others his majesty's officers of the peace, in and for the said county of Essex, forthwith to convey the body of the said E. F. to the gaol of Chelmsford in the said county, and safely to deliver the same to the keeper of the said prison there; and these are likewise, by virtue of my said office, in his majesty's name, to will and require you the said keeper to receive the body of the said E. F. into your custody, and him safely to keep in prison, until he shall duly sign and acknowledge his said information, or shall be from thence otherwise discharged by due course of law. And for your so doing, this is your warrant.

Given under my hand and seal, this first day of January, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

Middlesex, (to wit.) The information of G. H. ——— of ——— in the said county, yeoman, taken upon oath before me, E. F. esquire, one of his majesty's justices of the peace for the said county, at ——— in the said county, on the 2nd day of January, in the year of* our Lord 1816, in the presence and hearing of C. D. charged before me by A. B. of ——— yeoman, with, &c. [*state offence as in information and warrant*] which said G. H. on his oath aforesaid before me the said justice, in the presence and hearing of the said C. D. saith that, &c. [*here state the evidence fully.*]

EXAMINATION OF PROSECUTOR OR WITNESSES. Information or evidence of prosecutor or witness on examination. (k) [* 40]

G. H. (*Signature of prosecutor or witness.*)

Taken before me the day and year above mentioned,

E. F. (*Signature of the justice.*)

Middlesex, (to wit.) The examination of C. D. of the parish of ——— in the said county, labourer, taken before

EXAMINATION OF PRISONER.

(k) See directions as to the form and mode of taking the examination of prosecutor and witnesses, ante 1 vol. 77. to 83. See form Burn, J. Examination, B. As to Examination of accuser and witnesses, see ante 1 vol. 77 to 83. and Dick. J. Examination, I. and II. I. and II.

Examina-
tion of priso-
ner for bur-
glary. (k)

me, (l) one of his majesty's justices of the peace in and for the said county, (*liberty or division*,) on the 2nd day of January, in the year of our Lord one thousand eight hundred and sixteen, the said C. D. being charged before me by A. B. of Isleworth, in the said county, yeoman, with the felonious and burglarious breaking open in the night of the 31st day of December now last past, the dwelling-house of him the said A. B. at Isleworth aforesaid, in the county aforesaid, and stealing from thence one silver tankard of the value of twenty pounds, of the goods and chattels of him the said A. B. he the said C. D. upon his examination now taken before me, (m) saith, that [*here set forth the substance of the prisoner's statement. If he confesses or denies, say "Who confesseth or denieth."*]

C. D. (*Signature of prisoner.*)

Taken before me the day and year above mentioned,

E. F.

The like in
another
form, where
prisoner
signs exam-
ination. (n)

The like for
larceny. (o)
[* 41]

[*Same as the above precedent, until the words, "Taken, &c."*]

Taken before me, the justice aforesaid, on the day and year above mentioned, having been first perused by the said C. D. ("or having been first carefully read over to the said C. D.") before he subscribed the same.

E. F.

[*Commencement* as ante 40.*] being charged by me A. B. of Isleworth, in the said county, yeoman, with the felonious stealing on the 31st day of December in the year of our Lord one thousand eight hundred and fifteen, at Isleworth, aforesaid, in the said county, one silver tankard, of the value of twenty pounds, of the goods and chattels of him the said A. B.; he the said C. D. upon his examination now taken before me saith, that, &c. [*set forth substance of prisoner's statement, and conclude as ante 40.*]

Examination
and confes-
sion of pri-
soner, on
charge of

20th January, 1740.

City and county of the city of Bristol, (to wit.) The examination of Charles White, a sailor belonging to the Ruby

(k) As to the examination of the prisoner and subsequent proceedings, see ante 1 vol. 83 to 88. This is the usual printed form. See other forms, Burn. J. Examination, A. Dick. J. Examination, III. Williams, J. Examination. Toone, 140.

(l) If the offence is bailable and the party is admitted to bail, it must be "before us — and — two of his majesty's justices of the peace, in and for the said county, one of us being of the quorum." Williams, J. Examination, I. note*.

(m) The examination must not be taken upon oath, see ante 1

vol. 86.

(n) If the prisoner on being asked whether he will subscribe the examination with his name or mark, should consent so to do, especially if it amount to a confession of the crime wherewith he is charged, such examination should have the above words added immediately before the signature of the justice. Dick. J. Examinations, III. The signature however of the prisoner is not absolutely necessary. Ante, 1 vol 87.

(o) This is the usual printed form. See note (k) ante 40.

man of war, now lying in this port, born in Drogheda, in Ireland, aged about thirty-six years.

The examinant voluntarily confesseth and saith, that he hath been a sailor on board the said ship, for about seventeen months last past, &c. [state the matter of the confession, introducing any distinct sentence with the words "and further this examinant saith that, &c." and conclude as follows,] and lastly, this examinant saith, that between four and five of the clock, the same morning, the man of war's yawl was going to this city, and he and M—— landed at the gibb here.

(Signed) C. W.

Middlesex, (to wit.) A. B. of — in the said county, acknowledges himself to be indebted to our sovereign lord the king, in the sum of —/l. C. D. of — in the said county, acknowledges, &c. —/l. E. F. of — in the said county, acknowledges, &c. —/l. G. H. of — in the said county, acknowledges, &c. —/l. Upon condition, that they do personally appear at the next general (or next general quarter) sessions of the peace, to be held for the said county, at the sessions house on Clerkenwell green; then and there the said A. B. to prosecute the law with effect, and the others to give evidence in his majesty's behalf against I. K. for feloniously stealing, taking, and carrying away one pewter pot of the value of ten pence, of the goods and chattels of the said A. B. against the peace, &c. And if the bill be found a true bill, and returned so by the grand jury, that then they do also appear in court then and there to prosecute, and give evidence upon that indictment, and do not depart the court without leave. Then* this recognizance to be void, or else to remain in full force.

Taken and acknowledged the — day of —, A. D. 1816, before me L. M.

Middlesex, (to wit.) Be it remembered, that on the — day of —, in the year one thousand eight hundred and —, at the public office, Bow street, in the parish of St. Paul, Covent Garden, in the county of Middlesex, A. B. of — in the said county, C. D. of — in the same county, and E. F. of — in the said county, severally come before me G. H. esquire, one of his majesty's justices of the peace, in and for the said county of Middlesex, and acknow-

murder, taken before mayor of Bristol. (p)

RECOGNIZANCE TO PROSECUTE, &c. Recognizances by one to prosecute, and by others to give evidence, at Sessions house, Clerkenwell. (q)

Recognizance, one to prosecute, and others to give evidence at Old Bailey. (q)

(p) 6 St. Tr. 831.
(q) As to recognizance, ante 1. vol. 89 to 91. This is the form adopted at the Police Office, Bow Street, and generally. See Burn, J. Examination, C. Indictment, XII. Dick. J. Recognizance. Williams, J. Examination, III. Dalt. J. c. 176. Toone, 43.
(q) As to the recognizance, ante 1 vol. 89 to 91. This is the usual form adopted at the Police Office, Bow Street.

ledge themselves to owe to our sovereign lord the king, the sum of forty pounds each. Upon condition that they severally appear at the next general (or general quarter) session of the peace, and session of oyer and terminer, to be holden in and for the county of Middlesex, and the said A. B. then and there prefer a bill of indictment, and prosecute the law with effect : and the said other persons then and there give evidence in his majesty's behalf against I. K. for feloniously stealing, taking, and carrying away one coat of the value of twenty shillings, of the goods and chattels of the said A. B. against the peace, &c.; and if the said bill of indictment should be found a true bill, then that they severally appear at the next general session of the delivery of the gaol of Newgate, to be holden for the said county, at Justice hall, in the Old Bailey; and then and there prosecute and give evidence on the trial of the said indictment, and not depart the court without leave; then this recognizance to be void, otherwise to remain in full force and virtue.

Taken and acknowledged the day and year first above written, before me, G. H.

The like to
prosecute
and give evi-
dence at as-
sises.

Middlesex, (to wit.) A. B. of, &c. acknowledges himself to be indebted to our sovereign lord the king, in the sum of —/l. C. D. of, &c. acknowledges, &c. —/l. E. F. of, &c. acknowledges, &c. —/l. I. K. of, &c. acknowledges, &c. —/l. L. M. of, &c. acknowledges, &c. —/l. N. O. of, &c. acknowledges, &c. —/l. [*fill up according to number of persons bound; see ante 1 vol. 90, note y.*] upon condition that they do personally appear at the next general assize to be held for the county of Essex, then and there the said A. B. to prosecute the law with effect, and the others to give evidence in his majesty's behalf against X. Y. for feloniously stealing, taking, and carrying away one pewter pot of the value of ten pence, of the goods and chattels of the said A. B. against the peace, &c. And if the bill be found a true bill, and* returned so by the grand jury, that then they do also appear in court, then and there to prosecute and give evidence upon that indictment, and do not depart the court without leave. Then this recognizance to be void, or else to remain in force.

[* 43]

Taken and acknowledged the first day of January, one thousand eight hundred and sixteen. L. M.

To prose-
cute and
give evi-
dence at
sessions for
a misde-
meanour.
(r)

[*Here the king's arms are printed.*]

Essex, (to wit.) Be it remembered, that on the second day of January, in the year of our Lord one thousand eight hundred and sixteen, A. B. of, &c. personally came before me, one of his majesty's justices of the peace for the said county of Essex, one — in the said —, and acknowledged himself to be indebted to our sovereign lord the king, in the sum of —/l, of good and lawful money of the united

(r) This is a printed form to be had at stationers.

kingdom of Great Britain and Ireland, current in England, upon condition, that if the above bound A. B. shall personally appear at the next general quarter sessions of the peace, to be holden in and for the said county, and then and there prefer a bill of indictment against C. D. late of — in the said county, labourer, for [*state offence*] and shall then and there give evidence concerning the same, to the jurors who shall enquire thereof on the part of our lord the king, and not depart without leave of the court, then this recognizance to be void, otherwise to remain in full force.

Taken and acknowledged before me the same day and year aforesaid. E. F.

[*Here the king's arms are printed.*]

Essex, (to wit.) Be it remembered, that on the second day of January, in the year of our Lord one thousand eight hundred and sixteen, A. B. of, &c. personally came before me one of his majesty's justices of the peace for the said county, and acknowledged himself to be indebted to our sovereign lord the king in the sum of —/ of good and lawful money of the united kingdom of Great Britain and Ireland, current in England, upon condition that if the above bound A. B. shall personally appear at the next general quarter sessions of the peace, to be holden in and for the said county, and then and there prefer a bill of indictment against C. D. late of —, in the said county, labourer, for the feloniously taking, and carrying away one silver tankard, of the goods and chattels of the said A. B. of the value of twenty pounds, and shall then and there give evidence concerning the same, to the jurors, who shall inquire thereof on the part of our said lord the king: and in case the same be found a true bill, then if the said A. B. shall personally* appear before the jurors, who shall pass upon the trial of the said C. D. and give evidence upon the said indictment, and not depart without leave of the court: then this recognizance to be void, otherwise to remain in full force.

To prosecute and give evidence for felony at sessions. (s)

[* 44]

Taken and acknowledged before me the same day and year aforesaid. E. F.

Essex, (to wit.) Be it remembered, that on the second day of March, in the fifty-sixth year of the reign, &c. A. B. of — yeoman, came before me, E. F. esquire, one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and acknowledged himself to owe to our said lord the king, the sum of —/ of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands, and tenements, to the use of our said lord the king, his heirs and successors; if he the said A. B. shall fail in this condition under [*or if it be indorsed "within,"*] written.

Another form of recognizance to prosecute and give evidence for horse stealing, &c. (t)

(s) This is a printed form to be had at stationers. Williams, J. Examination, III. Burn, J. Examination, C. Indict-

(t) See forms Dalton, J. c. 176. ment, XII.

Acknowledged before me, E. F.

Whereas, one C. D. late of — labourer, was this present day brought before the justice above (or if it be indorsed “within”) mentioned by the above (or “within”) bounden A. B. and was by him charged with the feloniously stealing, taking, and leading away, (or if it is for stealing oxen, cows, or sheep, say “driving away,”) at — in the county aforesaid, one gelding of a bay colour, of the value of —*l.* of the goods and chattels of him the said A. B. whereupon he the said C. D. was committed by the said justice to the common gaol at —. The condition of the above (or “within”) written recognizance is therefore such that if the said A. B. do and shall at the next general quarter sessions of the peace (or gaol delivery as the case is) to be holden in and for the said county, prefer or cause to be preferred one bill of indictment of the said felony, against the said C. D. and shall then and there also give evidence concerning the same, as well to the jurors that shall then enquire of the said felony, as also to them that shall pass upon the trial of the said C. D. then the said recognizance shall be void, or otherwise stand and remain in full force and effect.

The condition of a recognizance to prosecute at admiralty sessions, for sinking a ship with intent to defraud the insurers. (u)

Recognizance where several are bound to give evidence and to prefer bills of indictment, one, &c. being bound, that his wife shall give evidence, &c. (w)

[* 45]

—— to appear at the next session of oyer and terminer and gaol delivery to be held for the jurisdiction of the admiralty of England, then and there to prosecute J. J. late captain of the ship or vessel, called the Fly, for wilfully and feloniously casting away the said ship or vessel, with intent to prejudice divers merchants who had* underwritten several policies of insurance on the cargo thereof against the statute, &c.

Be it remembered, &c. H. S. of M. in the county aforesaid, yeoman; R. S. of T. in the county aforesaid, labourer; J. O. of Y. in the county aforesaid, husbandman, and Sibilla his wife, came, &c. and acknowledged themselves and every of them, by himself, and for himself, acknowledged himself to owe to our said lord the king, 10*l.* sterling, and the said J. O. *manucepit* as well for himself, as for the said Sibilla his wife in 10*l.* of good and lawful, &c. of their goods, &c.

The condition, &c. That whereas A. B. and C. D. in the county aforesaid, labourers, were this present day brought before me, the said R. W. by the above bounden, &c. and were by them charged with the felonious taking of divers parcels of linen, and other apparel, out of the house and garden of the said T. O. of the goods of the said T. O. and the parties aforesaid. If therefore the said, &c. and every of them, shall and do at the next general gaol delivery, to be holden in the said county of N. the first day of the assizes,

(u) This is a form used at Police Office, Bow Street.

(w) This is an ancient form

from Mr. Anguish's Precedents, 24. See also, ante 1 vol. 91.

prefer or cause to be framed and preferred several bills of indictment, of the said felony respectively, according to their cause against the said A. B. and C. D. and shall and do then and there also give in evidence concerning the same, as well to the grand jury, as also to the petty jury, that shall pass upon the trial of the said A. B. and C. D. that then, &c. R. W.

The condition of this recognizance is such, that if the above bounden A. B. shall and do personally appear before his majesty's justices of assizes and gaol delivery, at the next general gaol delivery to be holden in this county of N. the first day of assizes; and then and there give in evidence against one P. K. arrested, brought before me the said R. W. for manslaughter, namely for the felonious killing of one A. B. as well to the grand jury, that shall be then and there sworn to enquire thereof, as also to the petty jury that shall be impannelled, for the trial of the said fact, between our sovereign lord the king's majesty, and the said P. K. and also shall prefer a bill of indictment, touching the said manslaughter to the said grand jury. That then, &c.

A condition to give evidence for a manslaughter, before Grand and Petty Jury, and to prosecute. (x)

Essex (to wit.) Be it remembered, that A. B. of, &c. and C. D. of, &c. and E. F. of, &c. do severally acknowledge to owe to our sovereign lord the king, the sum of forty pounds each, of lawful* money of Great Britain, to be levied on their several goods and chattels, lands and tenements, by way of recognizance to his majesty's use, in case default shall happen to be made in the condition hereinafter written:

Recognizance taken by coroner, from prosecutor and witnesses to appear before grand jury, and give evidence, and afterwards, if bill be found, to prosecute, and give evidence on trial, and if not found, then to give evidence on trial of coroner's inquest. (y)

The condition of this recognizance is such, that if the above-bounden A. B. C. D. and E. F. do severally appear before the justices of assizes and gaol delivery, at the next assizes to be holden at Chelmsford, in and for the county of Essex, and the said A. B. shall then and there prefer, or cause to be preferred to the grand jury, a bill of indictment against G. H. late of the said parish and county, labourer, and now in custody for feloniously, &c. [*describe charge for murder.*] And that the said A. B. C. D. and E. F. do then and there severally personally appear to give evidence on such bill of indictment to the said grand jury; and in case the bill of indictment be found by the grand jury a true bill, that then they the said A. B. C. D. and E. F. do severally personally appear at the next assizes to be holden in and for the said county of Essex aforesaid, and the said A. B. shall then and there prosecute or cause to be prosecuted, the said G. H. on such indictment: and the said A. B. C. D. and E. F. do then and there severally give evidence to the jury that shall pass on the trial of the said G. H. touching the premises: and in case the said bill of indictment shall be returned by

[* 46]

(x) This is an ancient form (y) See ante 1 vol. 91. note g. from Mr. Anguish's Precedents, Imp. Off. Cor. 110, 1.

the grand jury not found, that then they do severally personally appear at the said assizes, to be then and there holden for the said county, and then and there prosecute and give evidence to the jury that shall pass on the trial of the said G. H. upon inquisition taken before me, one of his majesty's coroners for the said county of Essex, on view of the body of the said L. M. and not depart the court without leave, then this recognizance to be void, otherwise in full force.

Taken and acknowledged, this first day of January, 1816.
Before me, X. Y.

RECOGNIZANCE TO PAY EXTRA COSTS, &c.
Recognizance to pay extra costs under 38 Geo. III. c. 52. s. 12. where indictment about to be preferred at assizes of adjoining county for an offence in a city. (z)
[* 47]
Another form of such recognizance.

Entry of a recognizance in a common prosecution where the bill of indictment is preferred in the next adjoining county taken previous to the preferring of the bill.

Northumberland. The king against Cuthbert Nicholson, perjury. C. S. of, &c. esquire. — 40/.

On condition, that the said C. S. do and shall pay the extra costs attending the said prosecution of the said C. N. for perjury in the county of Northumberland, being the next adjoining county to the town of Newcastle upon Tyne and county of the same town,* provided the court here shall be of opinion that he ought to pay the same pursuant to the statute in that behalf made.

Entry in Yorkshire in the case of a prisoner removed from Hull, at the instance of the prosecutor.

The King against Mary Ogglesby for felony. On the prosecution of T. S. removed by habeas corpus, from the gaol of the town of Kingston upon Hull, to the castle at York, at the instance of the said prosecutor.

The said T. S. of the said town, draper, — 40/.

On condition, that the said T. S. do and shall pay the extra costs attending the prosecution in the county of York, provided this court shall be of opinion that he ought to pay the same, pursuant to the statute in that behalf made.

N. B. In this case the habeas corpus was obtained previous to the assizes by application to a judge, and the recognizance was entered into before the bill was preferred.

[Here are printed the king's arms.]

Essex, (to wit.) Be it remembered, that on the second day of January, in the year of our Lord one thousand eight hundred and sixteen, G. H. of Chelmsford, in the said county, tanner, personally came before me one of his majesty's jus-

RECOGNIZANCE TO GIVE EVIDENCE.
Recognizance, to give evidence at assizes on indictment for felony. (a)

(z) This and the next precedent are from Mr. Nichols's precedents 147, see ante 1 vol. 99.

(a) Ante 1 vol. 90, 1. See form Williams, J. Evidence, III. Toone, 139, 393. Burn, J. Exa-

mination, C. Evidence, B. See also forms of recognizance of several, one to prosecute, and another to give evidence, ante 41 to 46.

tices of the peace for the said county, and acknowledged himself to be indebted to our sovereign lord the king in the sum of ten pounds, of good and lawful money of the united kingdom of Great Britain and Ireland, current in England, to be made and levied on his goods and chattels, lands, and tenements, to the use of our said lord the king, upon condition, that if the above-bound G. H. shall personally appear before his majesty's justices of gaol delivery, at the next general gaol delivery, to be holden in and for the said county of Essex, and then and there give such evidence as he knoweth, upon a bill of indictment to be exhibited by A. B. of ———, to the grand jury, against C. D. late of ———, in the said county, labourer, for the feloniously taking and carrying away one silver tankard, the property of the said A. B.; and in case the said bill be found a true bill, then if the said G. H. shall then and there give evidence to the jurors who shall pass on the trial of the said C. D. upon the said bill of indictment, and not depart thence without leave of the court: Then this recognizance to be void, otherwise to remain in full force. Taken and acknowledged before me the same day and year aforesaid.

E. F. [* 48]

[Here* the king's arms are printed.]

Essex, (to wit.) Be it remembered, that on the second day of January, in the year of our Lord one thousand eight hundred and sixteen, G. H. of Chelmsford, in the said county, tanner, personally came before me one of his majesty's justices of the peace for the said county, and acknowledged himself to be indebted to our sovereign lord the king in the sum of ten pounds, of good and lawful money of the united kingdom of Great Britain and Ireland, current in England: The condition of this recognizance is such, that if the above-bound G. H. shall personally appear at the next general Quarter Sessions of the peace to be holden in and for the said county, and then and there give such evidence as he knoweth, upon a bill of indictment to be exhibited by A. B. of ———, against C. D. late of ———, in the said county, labourer, for [here state the offence] to the jurors, who shall enquire thereof on the part of our said lord the king, and not depart without leave of the court: then this recognizance to be void, otherwise to remain in full force. Taken and acknowledged before me the same day and year aforesaid.

E. F.

———, (to wit.) Be it remembered, that on the ——— day of ———, in the ——— year of the reign of our sovereign lord George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, &c. A. W. of ———, in the said county of ———,

The like to give evidence on indictment at sessions for misdemeanour. (b)

Recognizance to appear and give evidence in another form. (c)

(b) See last precedent, and Toone, 139, 393. Burn, J. Examinations, C. Evidence, B. form Williams, J. Evidence, III. (c) See Dick. Sess, 91, 2.

tanner, personally came before me, J. P. esquire, one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and acknowledged himself to owe to our said lord the king, the sum of ten pounds, of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands, and tenements, to the use of our said lord the king, his heirs and successors, if he the said A. W. shall fail in the condition underwritten (or indorsed if it be so).

Acknowledged before me,

J. P.

[* 49]

The condition of the above or within-written recognizance is such, that if the above bound A. W. do and shall personally appear before the justices of our sovereign lord the king, assigned to keep the peace within the said county; and also to hear and determine divers felonies, trespasses, and misdemeanours, in the said county committed, at the next general Quarter Sessions of the peace, (or before his majesty's justices of gaol delivery,) to be holden at ———, in and for the said county, and do and shall then* give such evidence as he knoweth, upon a bill of indictment to be exhibited by A. J. of ———, to the grand jury, against O. O. late of ———, in the said county, labourer, for feloniously taking and carrying away ———, the property of ———, and in case the said bill of indictment be found a true bill, then if the said A. W. do and shall then and there give evidence to the jurors, that shall pass on the trial of the said O. O. upon the said bill of indictment, and not depart thence without leave of the court, then the above (or "within") written recognizance to be void, otherwise of full force.

A recogni-
zance taken
by two justi-
ces to give
evidence at
the Assizes.
(d)

Norfolk. Be it remembered that A. B. of W. in the county aforesaid, yeoman; E. F. of B. in the county aforesaid, yeoman; G. H. of ——— in the county aforesaid, labourer; I. K. of D. in the county aforesaid, shoemaker, came before us R. W. and F. G. esquires, two, &c. and each of them separately, by himself and for himself, acknowledged himself, separately and individually to owe to our said lord the king, ten pounds, sterling, of his goods and chattels, lands, and tenements, to be made and levied to the use of our said lord the king, his heirs and successors, &c. The condition of this, &c. that if the above bounden, &c. and every of them shall give attendance and be ready to give evidence against one W. C. of S. aforesaid, yeoman, before his majesty's justices of assizes and gaol delivery, the first day of the next assize and gaol delivery, to be holden for this county of N. and at all times during the said assizes for and concerning such matters and things, as on his majesty's behalf shall be objected against the said W. C. and demanded of the said, &c. or either of them, that then, &c.

(d) This is an ancient form from Mr. Anguish's book.

Public Office, Bow Street.

To the governor of Tothill Fields bridewell, or his deputy.

City and liberty of Westminster in the county of Middlesex, (to wit.) Receive into your custody the body of P. E. Luyburnum, herewith sent you by me, R. B. esquire, one of his majesty's justices of the peace, in and for the said city and liberty, it appearing to me by the information of the said P. E. taken on oath before me, that the said P. E. is a material witness against W. H. B. now committed by me to his majesty's gaol of Newgate, on a charge on oath against him, for having committed a certain felony and forgery, and the said P. E. admitting to me, the said justice, that she hath been cohabiting with the said W. H. B. and that she has no settled place of residence, and that she is not possessed of goods or chattels, lands or tenements, whereon to levy the penalty of a recognizance, and being required by me, the said justice, to find* sureties for her personal appearance at the next session of oyer and terminer, to be holden for the county of Middlesex, to give evidence before the grand jury, on a bill of indictment to be preferred against the said H. H. B. for the said felony and forgery: and in the event of such bill being found a true bill, to give evidence on the trial of the said H. H. B. at the sessions house at the Old Bailey, and the said P. E. now neglecting, and refusing to find such sureties to give evidence as aforesaid, for want of sureties her safely keep until the said session, there to give such evidence, unless she shall be sooner discharged by due course of law: and for so doing, &c.

Commitment of a witness to give evidence for want of sureties to appear. (e)

[* 49]

P. E. (L. S.)

And it appearing to me that L. N. now stands committed and indicted for a certain felony, touching which felony the said J. A. is a material witness, as appears by the information of the said J. A. taken on oath, touching the same: and the said J. A. being now required by me, the said justice, to find sureties for his personal appearance at the next general session of gaol delivery of Newgate, to be holden at the Old Bailey, to give evidence on the trial of the said L. N. for the said felony: and the said J. A. having admitted to me that he intended to absent himself from the said trial, and now neglecting, and refusing to find such sureties, him therefore safely keep in your custody for want of such sureties to give evidence as aforesaid, in the trial of the said L. N. and have him in court to give evidence accordingly, and for so doing, &c.

The like in another form.

To the governor of Tothill Fields bridewell, or his deputy.

Westminster, (to wit.) Receive into your custody the body of T. W. herewith sent you; brought before me W. K. es-

Commitment of a party concerned in a

(e) See ante, 1 vol. 90, 1. 3 M. & S. 1.

highway robbery on his own confession and for further examination the justice having admitted him as king's evidence. (f)

quire, one of his majesty's justices of the peace in and for the said city and liberty, by J. S. and charged before me the said justice, upon the oath of W. W. and his own confession, with having been concerned with J. S. and J. V. not yet in custody, in feloniously assaulting the said W. W. and his wife on the highway, in the county of Hertford, putting them in fear, and taking from their persons several shillings and some halfpence their property, against the peace, &c. and I having admitted him an evidence in his majesty's behalf against the said J. S. and J. V. Him therefore safely keep in your said custody for further examination until his said accomplices are apprehended and secured, or until he shall be discharged by due course of law, and for so doing this shall be your sufficient warrant.

Given under my hand and seal this — of —.

W. K. (L. S.)

Commitment of a witness who has confessed being concerned in felony, and who is admitted to be king's evidence. [* 57]

Public Office,* Bow Street,
To the keeper of the house of correction in Cold Bath Fields,
or his deputy.

Middlesex, (to wit.) Receive into your custody the body of — herewith sent you brought before me, one of his majesty's justices of the peace in and for the said county, by —, and charged before me the said justice, upon his own confession with being concerned with J. S. and others, in feloniously stealing, taking and carrying away eighty gallons of rum, of the value of forty pounds, of the goods and victualling stores of our lord the king, in a certain hoy on the navigable river Thames, at the parish of Erith, in the county of Kent. And the said W. F. having been admitted by me a witness against the said J. S. and others, him to give evidence at the next assizes at Maidstone: him the said W. F. therefore safely keep, &c.

Commitment of a person admitted by Justice as a witness for the crown, he not finding sureties to give such evidence.

To the Governor of the House of Correction in Cold Bath Fields, or his deputy.

Middlesex, (to wit.) Receive into your custody the body of W. D. herewith sent you; brought before me J. N. esquire, one of his majesty's justices of the peace in and for the said county, he being by me the said justice admitted as evidence on his majesty's behalf against J. E. and E. W. for felony and burglary, and not having any sufficient sureties for his personal appearance at the next general Session of the Peace and Session of Oyer and Terminer and gaol delivery of Newgate, to be holden for the said county, then and there to give such evidence; him therefore safely keep in your said custody, for want of such sureties and until he shall have given such evidence, or until he shall be discharged by due course of law; and for so doing, this shall be your

(f) As to admitting an accomplice to be King's evidence, see ante 1 vol. 82, 3.

sufficient warrant. Given under my hand and seal, this — day of January, one thousand eight hundred and eleven.

To the Governor, &c.

Middlesex, (to wit.) Receive into your custody the body of T. P. herewith sent you ; brought before me —, one of his majesty's justices of the peace in and for the said county, by B. B. constable, he the said T. P. having been by me admitted an evidence in his majesty's behalf, against J. B. and F. S. charged with felony ; and he the said T. P. not having any settled place of abode nor being able to find sureties for his personal appearance at the next general Sessions of the Peace and Session of Oyer and Terminer to be holden for the said county, to give his evidence as aforesaid ; him therefore, &c.

Commitment of one who had been admitted evidence for his majesty, who had no settled place of abode, and who could not find sureties.

Receive,* &c. A. H. and E. G. charged on their own confession with being accessaries after the fact, in certain felonies and footpad robberies, committed by J. S. and others in the county of Middlesex and Surrey, viz. by being harbouring, receiving, and entertaining them after the felony committed, and being present when the said stolen goods were sold, they the said A. H. and E. G. being by me, the said justice, admitted evidence in his majesty's behalf against the said J. S. and others, in the said several felonies and footpad robberies committed in the said counties. Them, &c.

Commitment of an accessory after the fact to give evidence. [* 52]

Receive, &c. L. M. charged before me the said justice upon his own confession with being an accomplice with C. D. and E. F. in feloniously taking and carrying away two handkerchiefs of the value of ten pence, the goods and property of G. H. against the peace, &c. he the said L. M. being by me the said justice, admitted an evidence in his majesty's behalf against the said several persons in the said felony, and him safely keep, &c.

Commitment of an accomplice to give evidence. (g)

Middlesex, (to wit.) A. B. of —, in the said county acknowledges himself to be indebted to our sovereign lord the king, in the sum of — pounds. C. D. of —, in the said county, acknowledges, &c. — pounds. E. F. of —, in the said county, acknowledges, &c. — pounds. Upon condition, that the said A. B. do personally appear at the next general (or "general Quarter") Sessions of the peace to be held for the said county, at the Sessions-house, on Clerkenwell-green, then and there to answer the complaint of G. H. for assaulting and beating him, (i) &c. against the

RECOGNIZANCES TO APPEAR. Recognizance to appear at Clerkenwell Sessions. (h)

(g) 4 W. & M. Ch. 8. s. 7. XII. Williams, J. Indictment, This will apply in case of robbery. See 4 W. & M. c. 8. s. 7. XII. Dick. Sess. 86.

(h) Ante 1 vol. 103. This is the common form. See other precedents, Burn, J. Indictment, (i) The substance of the charge is to be described according to the facts. If for felony, see post 53.

peace, &c.; and do not depart the court without leave; then this recognizance to be void, or else to remain in full force. Taken and acknowledged, the 1st day of January, 1816, before me,

L. M —,

One of his majesty's justices of the peace
for the county of Middlesex.

The like in
another form
at any other
Sessions. (k)

[* 53]

[*King's Arms.*] Be it remembered, that on the second day of January, in the year of our Lord one thousand eight hundred and sixteen, C. D. personally came before E. F. esquire, one of his majesty's justices of the peace for the said county, and acknowledged himself* to be indebted to our sovereign lord the king in the sum of eighty pounds of good and lawful money of the united kingdom of Great Britain and Ireland, current in England, upon condition, that if the above-bound C. D. shall personally appear at the next general (or "general Quarter") Sessions of the peace to be holden at —, in and for the said county, then and there to answer an indictment to be preferred against him by A. B. of, &c. yeoman, for an assault and battery upon him the said A. B. [*state the charge according to the facts.*] And not to depart without leave of the court. Then this recognizance to be void, otherwise to remain in full force.

Taken and acknowledged before me the same day and year aforesaid. E. F.

The like in
another
form, taken
before two
Justices on
a charge of
felony. (l)

Monmouthshire, (to wit.) Be it remembered, that on the second day of January, in the fifty-sixth year of the reign of our sovereign lord George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, C. D. of —, yeoman; G. H. of —, yeoman; and I. K. of —, yeoman: personally came before us, E. F. and L. M. two of his said majesty's justices of the peace in and for the said county of Monmouth, and severally and respectively acknowledged themselves to be indebted to our said sovereign lord the king, in the manner and form following, (that is to say,) the said C. D. in twenty pounds, of good and lawful money of Great Britain, and the said G. H. and I. K. in ten pounds each, of like lawful monies, to be respectively levied of their several goods and chattels, lands, and tenements, to the use of our said sovereign lord the king, his heirs and successors, if the said C. D. shall make default in the performance of the condition underwritten (or within written as the case is.)

Taken and acknowledged the day and year above written, before us,

E. F.

L. M.

The condition of this recognizance is such, that the above (or "within") bound C. D. do and shall personally appear

(k) See the above form and Bail, X. Burn, J. Bail, X. Dick. notes. J. Bail, VI.

(l) See form, Williams, J.

before the justices of our sovereign lord the king, assigned to keep the peace in and for the said county of Monmouth, and also to hear and determine divers felonies, trespasses, and other misdemeanours, within the said county committed, at the next general (or "general Quarter") Sessions of the peace to be holden in and for the said county, at —, in the county aforesaid, (or "before his majesty's justices of gaol delivery, at the next general gaol delivery, to be holden in and for the said county," as the case is,) then and there to answer our said sovereign lord the king, for and concerning the felonious taking and stealing of a silver tankard, the property of A. B. wherewith the said* C. D. stands charged before E. F. (m) [naming the justice that committed him,] and to do and receive what shall by the court be then and there enjoined him, and shall not depart the court without licence; then the above (or "within") written recognizance shall be void and of no effect, otherwise to remain in full force.

[* 54.]

Monmouthshire, (to wit.) Be it remembered, that on, &c. before us E. F. and L. M. two of the justices of our said lord the king, assigned to keep the peace in and for the said county of Monmouth, (one of us being of the quorum,) at —, in the said county, did come G. H. of —, in the said county, yeoman, and I. K. of the same place also, yeoman, and took in bail until the next gaol delivery to be holden in the said county, one C. D. late of —, labourer, taken and detained in prison for suspicion of having feloniously taken and stolen one silver tankard, the property of A. B. and undertook, that is to say, each of them, the said G. H. and I. K. under the penalty of twenty pounds, of good and lawful money of Great Britain, upon the goods and chattels, lands, and tenements of them and each of them, to the use of our said lord the king, his heirs and successors, to be levied if the said C. D. shall not personally appear at the said next gaol delivery, before the justices of our said lord the king, assigned to deliver the said gaol, then and there to answer to our said lord the king, concerning the premises, according to the law and custom of England. Given under our seals, &c.

The like where the defendant is in prison, or an infant, or a feme covert. (n)

On condition that J. T. appear before the commissioners appointed by his majesty by the first commission under his great seal, to try treasons committed out of the limits of this realm, at the time and place which the said commissioners shall appoint for the trial thereof, then and there to answer what shall be objected against him, for having been guilty of the crime of high treason in his majesty's colonies and plantations in America, contrary to the statute in that case made and provided.

Condition of a recognizance to answer for High Treason out of the realm in America. (o)

(m) Or if it be on suspicion only, say, "for and concerning the suspicion of his felonious taking and stealing, &c."

(n) Ante 1 vol. 104. Burn, J. Bail. Williams, J. Bail, X. 2 Hale, 126. Dick, J. Bail.
(o) MS. from Bow Street

A recognizance where two are bound for the appearance of two which may be done also in two several recognizances. (p) [* 55]

Norfolk. Be it remembered that A. B. of — in the county aforesaid, gent. D. E. of — in the county aforesaid, gent. E. H. of, &c. and K. L. of M. in the county aforesaid, yeomen, came, &c. and the said G. H. and K. L. undertook for the said A. B. and D. E. to wit, both of them in 20*l.* sterling, and the said A. B. and D. E. both of them in 40*l.* sterling of their goods and chattels, &c.

The* condition, &c. that if the above bounden A. B. and D. E. shall personally appear at the next general assizes to be held before the king's majesty's justices of gaol delivery, within this county of N. the first day of the assizes, then and there to answer to such matters, as on his majesty's behalf shall be objected against them, and either of them, that then, &c.

A condition where one is bailed for manslaughter. (q)

The condition of this recognizance is such, that if the said P. K. shall personally appear before the king's majesty's justices of assizes of general gaol delivery to be holden in the county of N. and then and there to answer, and stand to be justified and tried according to the laws of this realm of and for one manslaughter committed by the said P. K. upon one A. B. that then, &c.

Record of discharge of recognizance, where defendant appears but prosecutor does not. (r)

Be it remembered, that at the general Quarter Session of the peace of our sovereign lord the king, holden at —, in and for the county of —, on Wednesday the — day of — in the — year of the reign of our sovereign lord George the third, now king of the United Kingdom of Great Britain and Ireland, defender of the faith, and so forth; before — and — esquires, and others their fellows, justices of our said lord the king, assigned to keep the peace of our said lord the king, in and for the county of — aforesaid, and also to hear and determine divers felonies, trespasses, and other misdeeds committed in the same county; E. F. esquire, then one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and also to hear and determine divers felonies, trespasses and other misdeeds committed in the same county, doth certify and deliver here in court, a certain recognizance, taken before him, the — day of — of record, to be determined in form of law, the tenor of which said recognizance is as followeth: [*here insert the recognizance of the defendant and his two sureties, as ante 52, &c.*] And afterwards, to wit, at the same general quarter session of the peace of our said lord the king, holden for the county aforesaid, at — in the county aforesaid, on the said Wednesday, the — day of

(p) This is an ancient form from Mr. Anguish's book, 28.
from Mr. Anguish's precedents, 26.

(r) See ante, 1 vol. 92, 106.
See form Williams, J. Recognizance.

(q) This is an ancient form

—— in the year aforesaid, before the aforesaid justices of our said lord the king, and others their fellows aforesaid, being the next general quarter session of the peace holden for the county aforesaid, after the said —— day of —— the aforesaid C. D. cometh in his own proper person, and thereupon public proclamation is made, that if any one would inform the said justices, here against the said C. D. he might come forth and be heard, and because the aforesaid justices* and court, here do find nothing ill of him the said C. D. it is considered by the court here, that the said C. D. be discharged of his recognizance aforesaid, and that he go thereof without day. [* 56]

To the honourable Sir J. E. knight, his majesty's chief baron of his court of Exchequer, at Westminster, and the rest of his majesty's honourable barons of the same court.

Your lordships' petitioner humbly sheweth, that upon the complaint of A. H. he became bound in a certain recognizance to our sovereign lord the king, in the sum of forty pounds, before W. M. esquire, one of his majesty's justices of the peace in and for the county of Surrey, on the 13th day of August, in the year of our Lord one thousand seven hundred and ninety; upon condition that your petitioner should be and appear at the general quarter session of the peace to be holden at Kingston, in the said county of Surrey, on the 5th day of October, in that year, in order to answer to such indictment, as should be found by the grand inquest there, against your petitioner, touching an assault alleged by the said A. H. to have been committed upon her, by your petitioner. And your petitioner further humbly sheweth, that he did appear at the said session, and that a certain bill of indictment was upon the said allegation of the said A. H. exhibited to the said grand inquest which they found not to be true, but through neglect, the said recognizance still remains in force and uncanceled. And therefore your petitioner most humbly craves the order of this honourable court for relief in the premises under the mercy and according to the form and effect of a certain act of parliament made in the fourth year of the reign of our present sovereign lord the king (t) entitled an act for the more easy discharge of recognizances estreated into his majesty's court of Exchequer, and your petitioner as in duty bound shall ever pray, &c.

Petition for discharge of recognizance which remains in force through neglect, on 4 Geo. 3. c. 10. (s)

D. D. of, &c. the petitioner named in the annexed petition, maketh oath, and saith that the said petition is true in substance and matter of fact.

Affidavit in support of same.

D. D.

Sworn in Serjeant's Inn, the 12th day of November, 1792, before me, B. H.

(s) Ante 1 v. 92, 106. Cro. C. Geo. III. c. 52.
C. 8 Ed. 25. 4 Geo. III. c. 10. 38 (t) 4 Geo. III. c. 10.

Affidavit of poverty to found petition to Court of Exchequer to discharge an estreat of a recognizance of bail for defendant's appearance.

(u)

[* 57]

In the Exchequer.

G. H. of ——— in the county of Middlesex, labourer, and I. K. of ——— in the county aforesaid, yeoman, severally make oath and say, and first, this deponent the said G. H. for himself saith that* he is poor and indigent and much reduced in his circumstances, and that he receives relief as a pauper from the parish of ———, and that the petition hereto annexed is true in substance and in fact. And the said I. K. for himself saith, that he is one of the overseers of the poor of the said parish of ———, and that the said G. H. is very poor and indigent, and subsists as this deponent verily believes on the relief afforded him as a pauper, by the said parish of ———. Sworn, &c.

Public Office, Bow Street.

[*King's Arms.*]

General form of commitment at the Public office, Bow Street to Newgate, or New Prison, Clerkenwell, or Cold Bath Fields Prison, for felony or misdemeanour, introducing description of offence in different forms. (x)

To the keeper of his majesty's gaol of Newgate, or his deputy, (or "*To the keeper of the New Prison, at Clerkenwell, or his deputy,*" or "*To the governor of the House of Correction, at Cold Bath Fields, or his deputy.*")

Middlesex, (to wit.) Receive into your custody the body of C. D. of ——— in the county of Middlesex, labourer, (w) [*or if his name be unknown, then describe him by his apparent age, stature, complexion, colour of hair, or other particular circumstance, and add that he refuses to tell his name.* (x)] herewith sent you, brought before me, E. F. esquire, one of his majesty's justices of the peace, in and for the said county, by G. H. constable of the parish of ——— in the said county, (y) and charged before me, the said justice upon the oath of A. B. (z) with feloniously, &c.

[*Here concisely state the offence according to the circumstances of the case, &c. as directed ante 1 vol. 110 to 114. No particular mode of introducing the description of the offence appears material. See the different forms post 58, &c. The usual form runs with "feloniously assaulting, &c." or it may be "with having on, &c." or, "for unlawfully, &c." or, "charged with a misdemeanour, to wit, with having, &c." or,*

(u) Ante, 1 vol. 92, 106. 4 Geo. III. c. 10. 38 Geo. III. c. 52. Toone, 370. Cro. C. C. 8 Ed. 3 to 27. 85. Leach, 4 Ed. 663. As to the requisites of the commitment in general, see ante 1 vol. 109.

(w) It does not appear to be necessary to state the addition of defendant. Ante, 1 vol. 110. (y) See 1 Hale, 577. Burn, J. Commitment. III. Ante, 1 vol. 110.

(x) This is the printed form used at Bow Street Office, and the other Police Offices in the Metropolis. See also Toone, 79. (z) The statement of the constable bringing the offender does not appear to be necessary. Leach 4 Ed. 663.

"with suspicion of having been guilty of, &c." or, "for that he the said C. D. on, &c." If the offence be founded on a statute, conclude, "Contrary to the statute in such case made and provided." The commitment concludes as follows :]

Him, therefore, safely keep in your said custody, [if for want of sureties* in a case where the offence is bailable by the magistrate, here insert, "for want of sureties, and," (a)] until he shall be discharged by due course of law; and for so doing this shall be your sufficient warrant. [* 58]

E. F. (justice's signature,) (L. S.)

Given under my hand and seal this second day of January, one thousand eight hundred and sixteen.

Public Office, Bow Street.

To the governor of Tothillfields Bridewell, or his deputy.

City and liberty of Westminster, in the county of Middlesex, (to wit.) Receive into your custody the body of — herewith sent you, brought before —, esquire, one of his majesty's justices of the peace, in and for the said city and liberty, by — and charged by — before me, the said justice, upon the oath of, &c. [proceed to the end as in the last precedent.]

Commitment by a justice of peace, for city and liberty of Westminster. (b)

To the governor of Tothillfields Bridewell, or his deputy.

Westminster, (to wit.) Receive into your custody the body of Lockhart Gordon and Loudown Gordon, herewith sent you, brought before us, Nicholas Bond, esquire, and Sir William Parsons, Knight, two of his majesty's justices of the peace, in and for the said city and liberty, by John Miller, and charged before us, the said justices, upon the oaths of Rachael Fanny Antonia Lee, wife to Matthew Allen Lee, esquire, Jane Davidson, and others, of having, &c. [here state offence as in the precedent, and conclude, if against a statute, as follows :] contrary to the statute in that case made and provided, and against the peace of our said lord the king, his crown, and dignity, them therefore safely keep in your said custody, until they shall be discharged by due course of law, and for so doing this shall be your sufficient warrant. Given under our hands and seals, this 27th day of January, 1804.

Commitment by two justices. (c)

Nath. Bond, (L. S.)

Wm. Parsons, (L. S.)

To the keeper of Tothillfields Bridewell, or his deputy, &c.

Middlesex, (to wit.) Receive into your custody the body of Robert Fletcher, herewith sent you, brought before me,

Commitment for sending a

(a) In case the defendant was committed for want of sureties the following words are sometimes written by the Magistrate at the foot of the commitment: "In case of any application for bail it is requested that the committing magistrate may be referred to." (b) See notes to last precedent. (c) See notes to precedent, ante 57.

challenge,
party con-
fessing the
offence and
not finding
sureties to
appear at
General
Quarter
Sessions and
to keep the
peace

[* 59]

Aaron Graham, esq. one of his majesty's justices of the peace, in and for the said county, he being charged on oath, and also on his own confession before me, the said justice, with having sent a challenge to Sir John Lowner Johnstone, baronet, on the 25th of November instant, at the parish of St. Mary le bone, in the said county, to fight a duel with* and against him the said Robert Fletcher, against the peace, &c. and the said Robert Fletcher, being now required of me the said justice to enter into recognizance with two sufficient sureties, himself in the sum of 500/. and each surety in the sum of 250/. for his personal appearance, at the next General Quarter Session of the peace, in and for the said county, after the expiration of one year from this day, to answer what shall be objected against him, and in the mean time to keep the peace towards the said Sir John Lowner Johnstone, baronet, and all his majesty's liege subjects. And the said Robert Fletcher having neglected, and refused to enter into recognizance with such sureties as aforesaid, him therefore safely keep in your said custody, for want of such sureties, and until he shall be discharged by due course of law, and for so doing this shall be your sufficient warrant. Given under my hand and seal this 26th day of November, 1808.

A. G. (L. S.)

The like at
Police Of-
fice Union
Hall, South-
wark. (d)

Police Office, Union Hall, Southwark.

Surrey, (to wit.) To G. H. of — a constable; and to the keeper of his majesty's gaol in and for the said county.

Whereas C. D. of, &c. is now brought before me, E. F. esq. one of his majesty's justices of the peace in and for the said county, and charged on the oath of A. B. of, &c. for that, on, &c. [*here state the offence (e) as directed ante 57.*] These are, therefore, in his majesty's name, to command you, the said constable, to convey the said C. D. to the said keeper; and you the said keeper are hereby required to receive and safely keep the said C. D. in your said gaol, until he shall be thence discharged by due course of law: and for so doing this shall be your sufficient warrant. Given under my hand and seal this second day of January, one thousand eight hundred and sixteen.

E. F. (L. S.)

Form of
Mittimus or
commit-
ment for an
assault, mis-
demeanour
or felony,

Essex, (to wit.) E. F. esquire, one of the justices of our said lord the king assigned to keep the peace within the said county of Essex.

To the constable of the parish of Barking, in the said county of Essex, and to the keeper of —, at —, in the said county.

(d) See notes to precedent, usual printed form at this office ante 57. for a commitment for highway

(e) As to the modes of introducing the description of the offence, see ante 57. This is the robbery: see the other commitments, post.

These* are to command you the said constable of —, in his majesty's name forthwith to convey and deliver into the custody of the said keeper of the said gaol the body of C. D. this day brought before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, by O. P. constable of —, and charged upon the oath of J. K. and L. M. with, &c. *[here set forth the offence as directed ante 57, and conclude as follows:]* And you the said keeper of —, are hereby required to receive the said C. D. into your custody in the said gaol, and him there safely keep, until he be delivered from your custody by due course of law. Hereof fail you not. Given under my hand and seal the second day of January, in the year of our Lord one thousand eight hundred and sixteen.

used by
other ma-
gistrates.
(f)

[* 60]

E. F. (L. S.)

Essex, (to wit.) E. F. esquire, one of the justices of our said lord the king assigned to keep the peace within the said county of Essex; and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed.

The like n
another
form for a
felony. (g)

To the constable or —, of the parish of —, in the said county of Essex, and to the keeper of —, at —, in the said county, and to each of them, greeting.

These are in his majesty's name to charge and command you the said constable forthwith to convey and deliver into the custody of the said —, keeper of the said gaol, the body of C. D. of —, in the said county, labourer, charged upon the oath of G. H. and I. K. before me, with a felony, by him committed in stealing one silver tankard, of the value of twenty pounds, the property of A. B. of —, in the said county, yeoman, and you the said keeper are hereby required to receive the said C. D. into your custody in the said gaol, there to remain until he shall thence be delivered by due course of law. Given under my hand and seal at —, in the said county, on the second day of January, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

Essex, (to wit.) E. F. esquire, one of the justices of our said lord the king assigned to keep the peace within the said county of Essex, and also to hear and determine divers felonies, burglaries, trespasses, and other misdemeanours in the said county committed.

The like for
a burglary.
(h)

(f) This is the form now generally used by magistrates in the country, see Williams, J. Commitment. Dick, J. Commitment. Burn, J. Commitment, where see several other forms. Dalton, J. c. 178. Toone 101. for obstructing custom house officer in execution of his duty on 13 & 14 Car. 2. c. 11. 5 Burr, 2640. For a rescue, Toone, 371. For administering unlawful oaths, 3 East, 167, see notes to precedent ante 57.

(g) This is the usual printed form. See notes to the precedent, ante 59.

(h) This is the usual printed form. See notes to the precedent, ante 59.

To the constable or —, of the parish of —, in the said county of Essex, and to the keeper of —, at —, in the said county, and to each of them, greeting.

[* 61] These are in his majesty's name to charge and command you the said constable forthwith to convey and deliver into the custody of the* said keeper of the said gaol the body of C. D. of —, in the said county, labourer, who hath this day been brought before me, and charged upon the oath of A. B. and L. M. in the said county, with having feloniously and burglariously, in the night of the thirty-first day of December now last past, the dwelling-house of him the said A. B. at — aforesaid, in the county aforesaid, broken open, and one silver tankard, of the value of twenty pounds, of the goods and chattels of him the said A. B. feloniously and burglariously stolen, taken, and carried away from thence. And you the said keeper are hereby required to receive the said C. D. into your custody in the said gaol, there to remain until he shall thence be delivered by due course of law. Given under my hand and seal the second day of January, in the year of our Lord one thousand eight hundred and sixteen. E. F. (L. S.)

Warrant of
commit
ment for an
offence com-
mitted in
one county
when de-
fendant was
apprehend-
ed in ano-
ther, as in
case of big-
amy. (i)

To the gaoler or keeper of —.
Middlesex, (to wit.) Receive into your custody in the said gaol, and there safely keep until he shall be discharged by due course of law, the body of C. D. herewith sent you, and charged before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, on the oath of A. B. and O. P. and others, for that he the said C. D. on the first day of January, in the year of our Lord one thousand eight hundred and twelve, at the parish of Richmond, in the county of Surrey, did marry one G. H. spinster, and her the said G. H. then and there had for his wife, and that the said A. B. afterwards (to wit) on the first day of November, in the year aforesaid, in the parish aforesaid, feloniously did marry, and take to wife one L. S. spinster, the said G. H. his former wife, being then living; against the form of the statute in that case made and provided; the said A. B. having also made oath before me the said justice, that the said C. D. was apprehended and taken for the said felony, in the parish of Heston, in the said county of Middlesex. (k) Given under my hand and seal this second day of January, one thousand eight hundred and sixteen. E. F. (L. S.)

(i) See Toone, 63. The accused may be proceeded against under 1 Jac. 1. c. 11. in the county where "apprehended" though the offence was committed in another. In this case in order to shew that the justice has jurisdiction, the mittimus should state

where the party was apprehended. Toone, 3. 2 Leach, 4th Ed. 826.

(k) The word "apprehended" has been construed to mean the place where the offender is confined in prison. Hutton, 131. 2 Inst. 49. see notes to the precedent ante 57.

E. F. esquire, one of the justices of our lord the king, assigned to keep the peace in the said county of Middlesex, and also to hear and* determine divers felonies, trespasses, and other misdemeanours, in the said county committed. To the keeper of the gaol of our said lord the king at ———, in the said county, or to his deputy there, and to each of them, greeting.

Another form of mittimus on suspicion of felony directed to the gaoler only (l)
[* 62]

Middlesex, (to wit.) These are in his majesty's name to charge and command you that you receive into your said gaol the body of C. D. late of, &c. labourer, taken by G. H. constable of ———, in the said county, and by him brought before me for suspicion of felony, that is to say, for feloniously stealing, &c. [*here state the particulars*] and that you safely keep the said C. D. in your said gaol until the next general gaol delivery for the said county; [*if he be not bailable, or if bailable, thus: "until he shall be thence delivered by due order of law."*] And for your so doing this shall be to you and every of you a sufficient warrant. And herein fail you not. Given under my hand and seal this second day of January, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

[*As above.*]

S. P. esquire, one, &c. To the keeper of the gaol of our said lord the king at ———, in the said county, or to his deputy there, and to each of them, greeting.

Another form on suspicion of felony to the gaoler only. (m)

Middlesex, (to wit.) Whereas C. D. late of ———, in the said county, yeoman, hath been arrested by the constable of ———, in the said county, for suspicion of felony by him, as it is said, committed, in stealing a bay mare, of the value of ———, the property of A. B. of, &c. gent. Therefore, on behalf of our said lord the king, I command you, and each of you, that you, or one of you, receive the said C. D. into your custody in the said gaol, there to remain until he shall be delivered by due course of law. Given under my hand and seal, &c.

S. P. (L. S.)

George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Another form in the King's name to the gaoler only. (n)

To the keeper of our gaol at ———, in our said county, or ———, his deputy.

Middlesex, (to wit.) Whereas C. D. late of ———, in our said county, labourer, is arrested for suspicion of felony by him, as it is said, committed in feloniously taking and carrying away ———, of the value of ———, the property of A. B.

(l) Toone, 100. Williams, J. commitments for suspicion only, Commitment, V. as to committing see ante 1 vol. 112.
a party for suspicion only, see (n) Toone, 101. Williams, J. Commitment, V. As to commitments for suspicion, see ante, ante, 1 vol. 112.

(m) See forms Toone, 100. Williams, J. Commitment, as to 1 vol. 112.

[* 61]

We, therefore, command you and each and every of you, that you do receive him the said C. D. into your custody in our said gaol, or that one of you do receive him there to remain till he be delivered from your custody according to the law of our kingdom of England. Witness E. F. esquire, one of the justices assigned to keep the peace in our said county, and also to hear and determine divers felonies, trespasses, and other misdemeanours in our said county committed, at —, in the said county, the second day of January, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

Another form to gaoler where defendant confessed the felony. (e)

[Same as ante 59, 60, to the words brought before, &c.]

Brought before me this present day, and charged with the felonious taking and carrying away of twenty sheep [of the value of — of the goods and chattels of A. B.] (which also he hath confessed (p) upon his examination before me) and therefore these are (on the behalf of our sovereign lord) to command you, that immediately you receive the said C. D. and him safely keep in your said gaol until that he shall be thence delivered by the due order of law. Hereof fail you not, as you will answer for your contempt at your peril. Given under my hand and seal, at — this 2nd day of January, in the year of our Lord 1816.

E. F. (L. S.)

Commitment for want of sureties on toleration act, see 1 W. & M. c. 18. s. 18. (g)

To the constable of — in the said county, and to the keeper of the common gaol, at — in the said county.

Middlesex, (to wit.) Whereas, it hath been this day duly proved before me E. F. esquire, one of his majesty's justices of the peace, in and for the said county, by A. B. of — and C. D. of — in the county aforesaid, that G. H. of — in the said county, on the — day of — instant, wilfully, willingly, and of purpose, &c. [as in the information, see form ante 3, 13.] And whereas the said G. H. in pursuance of the said statute is now required by me the said justice to find two sureties to be bound in a recognizance in the penal sum of 50*l.* conditioned for his personal appearance at the next general quarter sessions of the peace to be held in and for the county, to answer for the said offence, but inasmuch as the said G. H. hath not found such sureties these are therefore to require you the said constable, forthwith to convey and deliver the said G. H. together with this my warrant, into the custody of the keeper of the said gaol at — aforesaid, and you the said keeper are hereby also required to receive the said G. H. into your custody in the said gaol,

(e) See form Williams, J. Commitment. See form where defendant confessed an assault, &c. ante 58.

(p) These words, it is said, prevent the defendant from being bailable.

(g) See form, Toone, 360. and form of information and warrants, ante 3, 13, and 52 Geo. III. c. 55, s. 12, &c. which extends the provisions of the 1 W. & M. c. 18. and see indictments, ante 2nd vol. 27, 8.

and him there safely keep until the next general quarter sessions of the peace to be held in and for the said county,* or until he shall be from thence discharged by due course of law. Given under my hand and seal the second day of January, 1816. [* 64]

E. F. (L. S.)

Essex, (to wit.) To ———, constable, and all other his majesty's officers of the peace whom these may concern, and to the keeper of ———, in the county of Essex.

Commitment for an assault and for want of sureties. (r)

Whereas C. D. was this day brought and charged before me, one of his majesty's justices of the peace for the said county of Essex, on the oath of A. B. with assaulting and beating him the said A. B. and with committing divers misdemeanours against his majesty's peace. And whereas the said C. D. hath refused (or "neglected") (although by me required) and does refuse (or "neglect") to find sureties as well as for his personal appearance at the next general quarter sessions of the peace, which shall be holden in and for the said county of Essex, to answer the premises, as also in the mean time to keep his majesty's peace to all his liege subjects, particularly towards the said A. B. These are, therefore, in his majesty's name, to command you the said constable, or other peace officer, safely to convey the said C. D. and deliver him to the keeper aforesaid, requiring you the said keeper to receive and safely to keep the said C. D. until he shall find such sureties, or otherwise be discharged by due course of law. Given under my hand and seal this ——— day of ———, in the year of our Lord one thousand eight hundred and sixteen. E. F. (L. S.)

Middlesex, (to wit.) To the constable of ———, and to the keeper of the house of correction at ———

Commitment of a person apprehended by the watch. (s)

Whereas C. D. was yesterday in the night taken by the watch, set by the constable of ———, wandering abroad and lodging in barns, out-houses, or in the open air, and is this day brought before me, E. F. esquire, one of the justices of our lord the king, assigned to keep the peace within the said county of Middlesex, and doth not now give a good account of himself before me. These are to require you the said constable of ——— to convey the said C. D. to the said house of correction at ——— aforesaid, and to deliver him to the keeper thereof, together with this warrant. And I do hereby require you the said keeper of the house of correction aforesaid, to receive the said A. B. into your custody in the said house of correction, and him there safely to keep until the next general quarter sessions of the peace to be holden in and for the said county, and have you him then there, together with this precept. Given under* my hand and seal the second day of January, in the year of our Lord one thousand eight hundred and sixteen. [* 65]

E. F. [L. S.]

(r) See ante 63.

(s) Burn, J. Watch. Toone,

452. Dick, J. Watch & Ward.

General
form of a
commit-
ment to the
house of cor-
rection. (t)

Essex, (to wit.) E. F. esquire, one of the justices of our lord the king assigned to keep the peace within the said county of Essex—To the constable of —, in the said county, and to the keeper of the house of correction at —, in the said county.

These are to command you the said constable, in his said majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said house of correction, the body of C. D, being charged before me upon oath, [or "convicted before me," or otherwise, as the case shall be: *and here set forth the offence.*] And you the said keeper are hereby required to receive the said C. D. into your custody, in the said house of correction, and him there safely keep until — [or "for the space of —:" *here set forth the time and the manner of punishment.*] Herein fail you not. Given under my hand and seal the second day of January, in the year of our Lord 1816. E. F. [L. S.]

Commit-
ment of a
rogue and
vagabond,
on 17 Geo.
2. c. 5. to
house of
correction.
(u)

To the keeper of the house of correction at Clerkenwell, or his deputy.

Middlesex, (to wit.) Receive into your custody the body of C. D. rogue and vagabond herewith sent you, brought before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county of Middlesex, by G. H. constable of the parish of —, and charged and convicted before me the said justice, upon the oath of A. B. with being a rogue and vagabond, within the intent and meaning of the statute made in the seventeenth year of the reign of his late majesty king George the second, intituled, "An Act to amend, and render more effectual the laws relating to rogues and vagabonds, &c." namely, a person of evil fame, and a reputed thief, apprehended in —, in the said county, on the — day of —, with intent then and there to commit felony. And it appearing before me the said justice, upon the oath of the said A. B. a credible witness, that the said C. D. is a person of evil fame, and a reputed thief: and the said C. D. upon the examination before me, not being able to give a satisfactory account of himself, or of his way of living; and it also appearing to the satisfaction of me the said justice, and there is just ground to believe the said C. D. was in the said — as aforesaid, with such intent as aforesaid, against the form of the statute in such case made and provided: him, therefore, safely keep in your said custody* until the next general [or "general quarter"] sessions of the peace to be holden for the said county, then and there

[* 66]

(t) Burn, J. House of Correction.

(u) Toone, 102, Burn, J. Vagrants, F. Dick. J. Vagrants. This is the usual printed form of

warrant. See another form on 39 and 40 Geo. III. c. 50. for poaching in the night, Burn. J. Vagrants T. 21st ed. and post 86.

to be further dealt with according to law, and have you him there together with this precept, or until he shall be discharged by due course of law; and for so doing this shall be your sufficient warrant. Given under my hand and seal this second day of January, in the year of our Lord 1816.

E. F. (L. S.)

To the keeper of ———.

Middlesex, (to wit.) Receive into your custody the body of C. D. herewith sent you by me, W. A. esq. one of his majesty's justices of the peace in and for the said county, and charged by me the said justice, upon the view of me, W. A. esq. one of his majesty's justices of the peace, in and for the said county, for indecent behaviour, by insulting me, and obstructing me in the due execution of my office as a magistrate as aforesaid, against the peace, &c. Her therefore safely keep in your said custody for want of sureties, or until she shall be discharged by due course of law, and for so doing this shall be your sufficient warrant. Given under my hand and seal this — day of — A. D. 1791.

Commitment by a justice, on view for insulting him. (w)

W. Addington. (L. S.)

Middlesex, (to wit.) To the keeper of his majesty's gaol at Newgate, or his deputy.

These are in his majesty's name to authorise and require you to receive into your custody the body of C. D. herewith sent you, charged before me upon the oath of A. B. and G. H. with high treason at Savannah, in the colony of Georgia, in North America, and you are to keep him safe until he shall be delivered by due course of law, and for so doing this shall be your sufficient warrant.

Warrant by Secretary of State, to keeper of Newgate, to receive into his custody, one charged with high treason in our colonies abroad. (x)

W. Addington. (L. S.)

Charles, earl of Egremont, and George Dunk, earl of Halifax, lords of his majesty's most honourable privy council, and principal secretaries of state. These are in his majesty's name to authorise and require you to receive into your custody, the body of John Wilkes, esquire, herewith sent you, for being the author and publisher of a most infamous and seditious libel, intitled The North Briton, number XLV. tending to inflame the minds, and alienate the affections of the people from his majesty, and to excite them to traitorous insurrections against the government; and to keep him safe and close until he shall be delivered by due course of law, and for* so doing this shall be your warrant. Given at St. James', the 30th day of April, 1763, in the third year of his majesty's reign.

Commitment to Tower by Secretaries of State for being the author of a libel. (y)

Egremont,
Dunk, Halifax.

(w) This form has been used at the Public Office, Bow Street. (x) See form Leach, C. L. 4th Ed. 157. 3d Ed. 187.

As to this general form, see 2 Barnard, 155. but see Hawk. b. 2 c. 16. s. 16. (y) This form was held good, in 2 Wils. 152.

2 c. 16. s. 16.

Commit-
ment by way
of detainer,
for another
offence. (z)

To the Right Honourable John Lord Berkley of Stratton, constable of his majesty's Tower of London, or to the lieutenant of the said Tower, or his deputy.

To the keeper of the New Prison, at Clerkenwell, or his deputy, (or, "to the keeper of his majesty's gaol of Newgate, or his deputy.")

Middlesex, (to wit.) Detain in your custody the body of William Philipps, being further charged before me, Sir Richard Ford, knight, one of his majesty's justices of the peace, in and for the said county, on oath, with feloniously, &c. [*describe the offence as directed ante 57 and as in the commitments post 67, 8, &c.*] against the statute in that case made and provided, and the peace of our lord the king, his crown and dignity, him safely keep in your said custody, until he shall be discharged by due course of law, and for so doing this shall be your sufficient warrant. Given under my hand and seal the 9th day of July, 1803. R. Ford. (L. S.)

To the keeper of his majesty's gaol of Newgate, or his deputy, (or "to the governor of his majesty's gaol at Southwark, in the said county, or his deputy.")

The like in
a different
form. (a)

Middlesex, (to wit.) Detain in your custody the body of C. D. of — in the county of Middlesex, labourer, now in your custody in the said gaol, he being further charged before me, E. F. esquire, one of his majesty's justices of the peace for the said county, upon the oath of A. B. of — in the said county, yeoman, with, &c. [*here state offence as directed ante 57*] and for your so doing this shall be your sufficient warrant. Given under my hand and seal this 2nd day of January, one thousand eight hundred and sixteen.

E. F. (L. S.)

FOR OFFENCES AGAINST RELIGION, MORALITY, &c.

For disturb-
ing the Con-
gregation
in a Parish
Church. (b)

[* 68]

[*Commencement and conclusion as ante 57 to 67*] for that he the said I. K. together with divers other evil-disposed persons on Sunday last, being the — day of — in this present month of — wilfully and of purpose did contemptuously come into the said parish church, situate in the said parish of — in the said county of Middlesex, during the time of divine service, and did disquiet and disturb* the congregation by, &c. [*here the mode of disturbance was stated, but this seems unnecessary.*] in the said parish church, and did by other noises and disturbances prevent one A. B. the then officiating minister of the said parish church, from proceed-

(z) This is the form used at the Police Office, Bow Street.

(a) See 1 vol. 63, 4.

(b) See precedents and notes,

ante 2nd Vol. 24 to 34. This form is on 1 W. and M. c. 18. s. 18. See also Toone, 358, and ante 63.

ing in the celebration of Divine service there, contrary to the statute, &c.

[*Commencement and conclusion as ante 57 to 67*] with having on, &c. willingly, maliciously, and contemptuously come into Tavistock chapel, in Broad Court, in the parish of, &c. within the said county, city, and liberty of Westminster, and disturbed the congregation there assembled, contrary to the statute, &c. The like for disturbing the congregation in an episcopal chapel.

[*Commencement and conclusion as ante 57 to 67*] with willingly and of purpose, maliciously, and contemptuously coming into a certain congregation permitted by law, in a room, near the George, at Uxbridge, in the said county, on Sunday the 1st instant, and disquieting, and disturbing the same, contrary to the statute, &c. The like for disturbing a congregation of Dissenters.

[*Commencement and conclusion as ante 57 to 67*] with keeping and maintaining certain disorderly houses, respectively in Bennett's court, in the said parish, against the peace, &c. For keeping disorderly houses. (c)

[*Commencement and conclusion as ante 57 to 67*] for that the said G. H. keeps a house of ill fame, and that lewd women frequently resort thither with men of dissolute lives to the great scandal of the neighbourhood, the encouragement of vice and debauchery, and against the king's peace. For keeping a bawdy house. (d)

[*Commencement and conclusion as ante 57 to 67*] with having been guilty of a certain misdemeanour in unlawfully and wilfully conveying and taking away the dead body of a certain man, from the vault belonging to the church of St. Mary Islington, in the said county, for the purpose of dissection, against the peace, &c. For digging up and taking away a dead body. (e)

[*Commencement and conclusion as ante 57 to 67*] with being guilty of a misdemeanour in endeavouring to excite each other by certain filthy and indecent practices to the commission of the crime of buggery, against the peace, &c. For indecent practices inciting to the commission of an unnatural crime (f)

[*Commencement and conclusion as ante 57 to 67*] for assaulting, ill-treating, and taking indecent liberties with him, with intent to commit the detestable vice of buggery on, &c. instant, at, &c. against the peace, &c. For taking indecent liberties with a man with intent to commit an unnatural crime. (g)

[*Commencement* and conclusion as ante 57 to 67*] with unlawfully and wickedly meeting and coming together at a certain house, known by the sign of the Swan, in Vere Street, Clare Market, at the parish of St. Clement Danes, in the said county, for the purpose of committing with each other, and For sodomitical practices. [* 69]

(c) See precedent and notes, 2d Vol. 35.
2d Vol. 38, 9, 40.

(f) See precedent and notes,

(d) See precedent and notes, ante 2 Vol. 50.
ante 2 Vol. 38, 9, 40.

(g) See precedent and notes,

(e) See precedents and notes, ante 2 Vol. 50.

then and there wickedly committing and perpetrating with each other divers filthy, lewd, nasty, and sodomitical acts and practices, contrary to the order of nature, to the great scandal of mankind, and against the peace, &c.

On suspicion
of buggery.
(h)

[*Commencement and conclusion as ante 57 to 67.*] On suspicion of feloniously, and diabolically, against the order of nature, committing and perpetrating the horrid and detestable crime of buggery upon the body of L. K. against the form, &c.

The like in a
different
form.

[*Commencement and conclusion as ante 57 to 67*] on suspicion of having been guilty of an unnatural crime, they having apprehended him last night in the mews in Spring Gardens, in company with another man, who escaped, both of whose breeches were unbuttoned at the time, against the peace, &c.

For an as-
sault with
intent to
commit bug-
gery

[*Commencement and conclusion as ante 57 to 67.*] with assaulting him the said A. B. last night, at, &c. with intent to commit the detestable crime of buggery with him the said A. B. against the form, &c.

For an unna-
tural crime
in a fuller
form.

[*Commencement and conclusion as ante 57 to 67.*] for that the said C. D. being moved and seduced by diabolical instigation, on, &c. at, &c. in and upon one A. B. then and there being, did violently and feloniously make an assault, and then and there the said A. B. did wickedly, diabolically, feloniously, and against the order of nature, carnally know, and a venereal affair in the fundament of the said A. B. then and there had, and him the said A. B. then and there carnally did know, and that sodomitical, detestable, and abominable sin, called buggery, then and there with the said A. B. wickedly, diabolically, feloniously, and against the order of nature, committed and perpetrated to the great disgrace of all human kind, against the peace of our lord the king, his crown, and dignity, and also against the form of the statute in such case made and provided.

For singing
obscene
songs.

[*Commencement and conclusion as ante 57 to 67.*] Being persons of evil fame, viz. singing obscene and bawdy ballads in the parish of St. Ann, Soho, to corrupt the minds and morals of the liege subjects of our lord the king.

FOR* OFFENCES AGAINST THE KING AND GOVERNMENT.

On suspicion
of high trea-
son (i)

[*Commencement and conclusion as ante 57 to 67*] being suspected of the crime of High Treason.

The like for
high treason
in America.

[*Commencement and conclusion as ante 57 to 67*] being suspected of the crime of High Treason, committed by him in his majesty's colony of Pennsylvania, in America.

[* 70]

(h) See notes, 2 vol. 48, 9.

in general is good, ante 1 vol.

(i) See notes at large on the of-
fence, &c. of Treason, 2 vol. 60
to 67. A Commitment for Trea-
son, or for treasonable practices

111. 7 T. R. 736. Hawk. b. 2.
c. 16. s. 16. No overt act need
be stated. 1 Stra. 3, 4.

[*Commencement and conclusion as ante 57 to 67*] with High Treason, at Savannah, in the colony of Georgia, in North America. The like for high treason abroad.

[*Commencement and conclusion as ante 57 to 67*] with having been guilty of the crime of High Treason in his majesty's colonies and plantations, in America, contrary to the statute in that case made and provided. The like in his majesty's colonies.

[*Commencement and conclusion as ante 57 to 67*] for being the author and publisher of a most scandalous and seditious libel, intituled *The North Briton*, number XLV. tending to inflame the minds, and alienate the affection of the people from his majesty, and to excite them to traitorous insurrections against the government. For a seditious libel. (k)

[*Commencement and conclusion as ante 57 to 67*] for having on Wednesday morning last at, &c. unlawfully uttered certain treasonable and seditious words, and contemptuous expressions of and concerning the king, to wit, that the king was a bloody rascal, and that he wished he was put to death; against the peace, &c. For uttering seditious expressions, of and concerning the king. (l)

[*Commencement and conclusion as ante 57 to 67*] for unlawfully, wickedly, and maliciously uttering, speaking, and publishing certain wicked, malicious, and seditious words, of and concerning our sovereign lord the king, and tending to bring him into contempt with his liege subjects, that is to say, "God damn and blast the king," (meaning our said lord the king) against the peace, &c. For other seditious words. (m)

[*Commencement and conclusion as ante 57 to 67*] with having on, &c. last, in St. George's Fields, in the county of Surrey, maliciously spoken, expressed, uttered, and declared certain words and sentences to* incite and stir up the people to hatred and contempt of the person of his majesty, to wit, [* 71] "Damn and bugger the king; I wish his bloody head was off; against the peace, &c. him therefore, &c. For uttering seditious words against his majesty. (n)

[*Commencement and conclusion as ante 57 to 67.*] For that he the said C. D. on, &c. at, &c. unlawfully, wickedly, and seditiously, did utter and declare in the presence and hearing of divers of the liege subjects of our lord the king, the malicious and seditious words following, to wit; "Damn the king, the Prince of Wales, the Duke of York, and all the royal family; I wish they were all blown up in the middle of hell with gun-powder." The like for uttering seditious words, against his Majesty, the Prince of Wales, the Duke of York, and all the Royal family. (o)

(k) It was holden that this form is sufficient, and that it is not necessary to set forth the libel, 2 Wils. 151. Ante 1 vol. 112. see forms of Indictments and notes, ante 2 vol. 84 to 99.

(l) See precedents of Indictments and notes, 2 vol. 84 to 99.

(m). See precedents of Indictments and notes, 2 vol. 84 to 99.

(n) See precedents of Indictments and notes, ante 2 vol. 84 to 99.

(o) See precedents of Indictments and notes, ante 2 vol. 84 to 99.

- The like for seditious words, not stating them. (p) [*Commencement and conclusion as ante 57 to 67*] with unlawfully, wilfully, and maliciously uttering and publishing divers seditious, scandalous and inflammatory words of and concerning our said lord the king, with intent to bring him into hatred and contempt with his liege subjects; against the peace, &c.
- For seditious words respecting the Rebellion in Ireland, not stating them. (q) [*Commencement and conclusion as ante 57 to 67*] with wilfully, maliciously, and seditiously speaking, uttering, and publishing divers false, seditious, and inflammatory words, of and concerning the late rebellion in Ireland, and wishing success to the pikes, meaning the Irish rebels, with intent to move and incite the liege subjects of our lord the king to hatred and contempt of our lord the king, and the government of his realm, against the peace, &c.
- On 37 Geo. 3. c. 123. for taking unlawful oaths, not being forced so to do. (r) [*Commencement and conclusion as ante 57 to 67*] with feloniously taken a certain oath and engagement purporting and intended to bind the said John Kealing not to reveal or discover a certain unlawful combination and confederacy made between the said J. K. and divers other evil disposed persons, (he the said J. K. not being compelled to take the said oath or engagement) against the statute, &c.
- For taking and framing unlawful oaths at Common Law. (s) [*Commencement and conclusion as ante 57 to 67*] for unlawfully, wickedly, and seditiously meeting together with divers other persons, and consulting, advising, and agreeing to compose and frame a certain unlawful oath and engagement, purporting to bind the persons taking the same to commit treason and murder, with intent to take the same themselves, and feloniously to administer the same to divers liege subjects of our lord the king, against the peace, &c. therefore, &c.
- For being, aiding, and assisting at the administering an unlawful oath. (t) [*Commencement* and conclusion as ante 57 to 67*] for unlawfully and feloniously being aiding and assisting at, and consenting to, the administering and taking of an oath or engagement, purporting and intended to bind A. B. the person taking the same to be of an association, society, and confederacy formed to disturb the public peace, and not to inform or give evidence against any associate, confederate, or other person, and not to reveal or discover a certain unlawful combination and confederacy, and not to reveal and discover a certain illegal act done against the peace, &c. and against the statute, &c.
- For publishing a seditious book. (u) [*Commencement and conclusion as ante 57 to 67*] with unlawfully printing, and publishing, and causing and procuring to be printed and published a certain wicked, scandalous, and seditious libel, entitled "Thos. Paine to the people of England,

(p) See Indictment and notes, 426.
ante 2 vol. 84 to 99.

(q) See Indictments and notes,
ante 2 vol. 84 to 99.

(r) Ante 102. n. e. 3 East. 157.
52 Geo. III. c. 109. 6 East 414,

(s) See ante 2 vol. 102.

(t) See ante 2 vol. 102.

(u) See precedent ante 2 vol.
84 to 89. 2 Wils. 151.

and on the invasion of England," containing therein divers wicked, false, scandalous, and seditious matters, of and concerning our lord the king, and the constitution of this kingdom, and of and concerning the administration of the government, and the public affairs of this kingdom, and the principal officers and ministers, and also the liege subjects of our said lord the king, with intent to disturb the peace, and bring the person and government of our said lord the king, and the constitution of this kingdom into hatred and contempt, against the peace, &c.

Receive, &c. the body of A. B. brought before me, C. D. esquire, (by Thomas Green) and charged before me the said justice upon the oath of the said T. G. and his own voluntary confession with being a deserter from his majesty's sixty-eighth regiment of foot guards, commanded by Colonel Reynolds, contrary to the statute, &c.

Commitment of a Deserter, founded on 9 Geo. 2 c. 30. s. 1. 2. Geo. 2. chap. 17. s. 2.

[*Commencement and conclusion as ante 57 to 67*] For that he being a subject of his majesty hath, during the present war with France, unlawfully and voluntarily gone into France without license from his majesty, under his sign manual, or by order in council, or proclamation first had and obtained, for that purpose, contrary to the statute in such case made and provided; therefore, safely keep, &c.

For a misdemeanour in going into France, during the war, without license from his majesty.

[*Commencement and conclusion as ante 57 to 67*] with a certain misdemeanour, that is to say, with unlawfully and knowingly carrying and conveying A. B. C. D. and E. F. three French prisoners of war from Litchfield, in the county of Stafford, to Whitechapel, in the county of Middlesex, in order and with intent to enable and assist them to escape out of and from this kingdom into parts beyond the seas, against the peace, &c.

For assisting French Prisoners of War to escape, by conveying them across the country. (w)

[*Commencement* and conclusion as ante 57 to 67*] for a certain misdemeanour in unlawfully, disloyally, and wickedly aiding and assisting C. D. and three other French prisoners of war, to escape and go at large from and out of the limit in which they were detained, and conducting them from Ashbourn, in the county of Kent, to Harbledown, in the said county, and harbouring, maintaining, and concealing them, in order to enable and assist them to escape and go at large from and out of this kingdom into parts beyond the seas.

For assisting French prisoners of war to escape out of prison and conveying them.

[* 73]

[*Commencement and conclusion as ante 57 to 67*] upon the oath of C. D. with wilfully and knowingly aiding and assisting E. F. and G. H. two French prisoners of war, to escape from Thame, in Oxfordshire, where they were on their parole of honour, and accompanying the said prisoners from Thame aforesaid, to Stoken Church, in the said county, with intent to aid and assist them in making their escape from this country to France, against the peace, &c.

Commitment for aiding the escape of French prisoners on their parole of honour.

(w) This offence was made felony by 52 Geo. III. c. 156.

For assisting prisoner of war to escape generally out of the realm. [Commencement and conclusion as ante 57 to 67] with unlawfully, and wilfully, aiding and assisting the said C. D. he the said C. D. being a prisoner of war, to attempt to make his escape from and out of this kingdom into foreign parts, against the peace, &c.

FOR OFFENCES AGAINST COIN.

For treason in coining shillings on 25 Edward III. stat. 5. c. 2. (w) [Commencement and conclusion as ante 57 to 67] with feloniously and treasonably counterfeiting the king's silver money, called shillings, against the statute, &c.

For treason in colouring base money like shillings, on 8 & 9 W. III. c. 26 s. 4. (x) [Commencement and conclusion as ante 57 to 67] with feloniously and traitorously colouring with certain materials, producing the colour of silver, round blanks of base metal of a fit size and figure to be coined into counterfeit milled money, resembling the silver coin of this kingdom, called shillings, contrary to the statute in that case made and provided, and against the peace, &c.

For coining copper halfpence on 11 Geo III. c. 40. (y) [Commencement and conclusion as ante 57 to 67] with unlawfully and feloniously making, coining, and counterfeiting certain copper money, called halfpence, &c. against the form, &c.

For treason in having tools for coining in custody on 8 & 9 W. III. c. 26. (z) [* 74] [Commencement and conclusion as ante 57 to 67] with knowingly, feloniously, and traitorously having in his custody and possession two several moulds made of sand upon which were made and impressed, to wit, on one of the said moulds the figure, resemblance,* and similitude of the head side of a shilling, and on the other of the said moulds the figure, resemblance, and similitude of the head side of a sixpence, without any lawful authority or sufficient excuse for that purpose, against the duty of his allegiance and against the form of the statute in that case made and provided.

For having in possession a cutting engine for making shillings on 8 & 9 W. III. c. 26 (a) [Commencement and conclusion as ante 57 to 67] with feloniously and traitorously having in his custody and possession a certain cutting-engine for cutting round blanks by force of a screw out of flatted bars of gold or silver, without lawful authority or sufficient excuse for that purpose against the statute, &c.

On suspicion of feloniously putting off counterfeit money at a lower rate than its denomination imported, on 8 & 9 W. III. c. 26 s. 6. (b) [Commencement and conclusion as ante 57 to 67] on suspicion of feloniously putting off certain counterfeit milled money at and for a lower rate and value than the same by its denomination did import and was counterfeited for, to wit, at the rate of twenty counterfeit shillings for ten good shillings, against the statute, &c.

(w) See notes, 2 vol. 103, 4, 5.

(x) See notes, 2 vol. 105, 6.

(y) See notes, 2 vol. 106, 7.

(z) See notes, 2 vol. 108, 9.

(a) Ante 2 vol. 108.

(b) See notes, 2 vol. 111. n. h.

[Commencement and conclusion as ante 57 to 67] with feloniously putting off certain counterfeit milled money, not cut in pieces, at and for a lower rate and value than the same by its denomination did import and was counterfeited for, that is to say, at the rate of two counterfeit shillings for one good shilling, against the statute, &c.

For putting off bad money at a lower rate than its denomination imported, on 8 & 9 W. III. c. 26. s. 6.

[Commencement and conclusion as ante 57 to 67] with feloniously making, coining, and counterfeiting certain coin, not the proper coin of this realm, nor permitted to be current within the same, but resembling and made with intent to resemble and look like certain gold coin of a foreign prince, to wit, the king of Prussia, called Frederick D'ors, at Birmingham, in the county of Warwick, against the statute, &c.

For feloniously counterfeiting Frederick D'ors, on 37 Geo. III. c. 126. s. 2.

[Commencement and conclusion as ante 57 to 67] with feloniously making, coining, and counterfeiting certain coin, not the proper coin of this realm, nor permitted to be current within the same, but resembling and made with intent to resemble and look like certain silver coin of a foreign prince, to wit, the king of Prussia, called Dedkes, at Birmingham, in the county of Warwick, against the statute, &c.

For feloniously making counterfeit foreign coin, on 37 Geo. III. c. 126. s. 2.

[Commencement and conclusion as ante 57 to 67] with being guilty of misprision of high treason, by falsely forging and counterfeiting several pieces of copper with impressions resembling such coin of gold as is not the proper coin of this realm, nor permitted to* be current within this realm, to wit, quarter moidores of the coin of the kingdom of Portugal, against the statute, &c.

For misprision of treason in making quarter moidores, on 14 Eliz. c. 8. [* 75]

[Commencement and conclusion as ante 57 to 67] with unlawfully uttering and tendering in payment to the said C. D. one piece of false and counterfeit money made and counterfeited to the likeness and similitude of the good and current coin of this realm, called a sixpence, well knowing the same to be false, forged, and counterfeited, contrary to the statute, &c.

For a misdemeanor in uttering a counterfeit shilling on 15 Geo. II. c. 28. s. 2 (c)

[Commencement and conclusion as ante 57 to 67] for uttering and tendering in payment to the said C. D. upon the 18th day of April instant, a certain false and counterfeit piece of money, knowing the same to be so, as and for the true and lawful silver coin of this kingdom, called a sixpence, contrary to the statute, &c.

The like in another form.

[Commencement and conclusion as ante 57 to 67] with unlawfully and unjustly uttering to the said S. D. three pieces of false and counterfeit money and coin, made and counterfeited to the likeness and similitude of three pieces of good money and silver coin of this realm, called shillings, as and for three pieces of good and lawful current money and silver coin of this realm, knowing the same to be false and counterfeit, contrary to the statute, &c.

The same in another form.

(c) See notes, 2 vol. 112. n. h.

For uttering counterfeit money, having other of the same kind in possession, on 15 Geo. II c. 28 s. 3. (d)

[*Commencement and conclusion as ante 57 to 67*] Matthew Henson, Sarah, the wife of Walter Coulston, Henry Cleaver, and others, with being common utterers of false and counterfeit money, that is to say, by having uttered and tendered to the said Sarah Coulston, one false and counterfeit shilling, knowing it to be so, and at the same time having in their possession other false and counterfeit shillings and sixpences, besides what was uttered and tendered as aforesaid, contrary to the statute, &c.

For feloniously uttering counterfeit shillings the third offence, on 15 Geo. 2. c. 28 s. 3. see notes, 2 vol. 114. n. p.

[*Commencement and conclusion as ante 57 to 67*] With feloniously uttering to him the said I. B. on the 1st day of this instant, at the Parish of St. Paul, Covent Garden, on the — day of December last, a piece of false and counterfeit money, made and counterfeited to the likeness of a piece of good, legal and current money and silver coin of this realm, called a shilling, as and for a piece of good, legal and current money and silver coin of this realm called a shilling, well knowing the same to be false and counterfeit, she the said C. D. having been before convicted of a second and similar offence at the general Quarter Session of the Peace, held for the county of Middlesex, at the Session-house, Clerkenwell-Green, in the month of July, 1806, and being thereupon adjudged to* suffer two years imprisonment, and to find sureties for her good behaviour for eight years more, to be computed from the end of the first two years.

[* 76]

For feloniously buying counterfeit copper money, for less than its nominal value, on 11 Geo. 3. c. 40. For exchanging guineas for more than their nominal value.

[*Commencement and conclusion as ante 57 to 67,*] with feloniously buying in the city of London, a quantity of counterfeit copper money, not melted down and cut in pieces, at and for a lower rate and value than they, by their denomination, did import and were counterfeited for.

[*Commencement and conclusion as ante 57 to 67.*] For unlawfully on the 19th day of April, instant, at, &c. exchanging with him the said H. I. B. certain pieces of coined gold of the current coin of this realm, called guineas, giving and paying more in benefit, profit and advantage for the said coined gold so exchanged, than the same are declared by a certain proclamation of his late majesty King George the First to be current for in his majesty's realm, contrary to the statute in such case made and provided.

FOR OFFENCES AGAINST THE REVENUE.

For feloniously assembling in order to be aiding in running uncustomed goods, on 19 Geo. II c. 34. (f)

[*Commencement and conclusion as ante 57 to 67.*] Charged before me the said justice upon the oath of R. C. and others with feloniously being assembled with other persons, at, &c. on, &c. last, armed with offensive weapons, in order to be aiding and assisting in the illegal running and carrying away

(d) See notes, 2 vol. 114. n. (p).

(f) See notes 2 vol. 122. n. (a).

certain uncustomed goods, to wit, Hollands, Geneva, and also with then and there feloniously and forcibly hindering, obstructing and assaulting, the said R. C. an officer of excise, in the seizing and securing such goods, against the statute, &c.

[*Commencement and conclusion as ante 57 to 67.*] Receive For hinder-
W. T. charged on the oath of I. K. and I. A. two of the offi- ing and mo-
cers of his majesty's excise, for assaulting, resisting, op- lesting the
posing, and molesting and hindering the said I. K. and I. A. officers of
in the due seizing and securing a quantity of tea, which excise in the
was liable to be seized, and by force and violence attempt- execution of
ing and endeavouring to rescue the said tea, so seized as their duty.
aforesaid by the said I. K. and I. A. and assaulting and (g)
beating them in the execution of their duty, against the
statute, &c.

[*Commencement and conclusion as ante 57 to 67.*] For for- For forcibly
cibly resisting, hindering, affronting, abusing, beating and resisting
wounding one A. B. one of the officers of his majesty's cus- custom-
toms, in the execution of his office on the 11th instant, in house offi-
the parish of Saint Paul, Deptford,* in the said county, to the cers, on 19
hazard of his life, the said C. D. being then with others Geo. III. c.
armed with offensive weapons, to wit, clubs, whereby some 69. s. 10 (h)
prohibited and uncustomed goods were forcibly carried and [* 77]
conveyed away by the said C. D. and others, after they had
been seized by the said A. B.

[*Commencement and conclusion as ante 57 to 67*] with being For running
found on, &c. instant, passing along a certain road in, &c. tea into this
with two horses, laden with eight bags of tea, containing kingdom, 19
two hundred and fifteen pounds weight of tea, the same being George 3. c.
run into this kingdom. 69.

[*Commencement and conclusion as ante 57 to 67*] For that For an as-
he the said O. M. did unlawfully assemble himself together sult on one
with several other persons armed with stones and brickbats of his maj-
in Buckbridge street in the parish of Saint Giles in the fields, ty's revenue
in the said county, upon the 27th day of September instant, officers in
and did then and there forcibly hinder, affront, abuse, and the execu-
wound the said C. D. to the hazard of his life, in the execu- tion of his
tion of his said office. office at com-
mon law.

[*Commencement and conclusion as ante 57 to 67*] for volun- For feloni-
tarily, and feloniously, and without his majesty's licence, or ously sailing
the licence of his majesty's privy council, or of one of his into an ene-
majesty's principal secretaries of state, or of the first lord of my's port
the admiralty, or other sufficient lawful authority, and with- without li-
out any sufficient excuse for the same proceeding, and sail- cense, in or-
ing in a certain vessel, called a cutter, from Broadstairs, in der to pre-
cure spirits,
on 48 Geo. 3.
c. 84. s. 9.

(g) The 19 Geo. 3. c. 69. s. 10. empowers Justices to com- vol. 122, 3. Under this act the
mit for this offence. Defendant cannot insist on be-
ing bailed. id. ibid.

(h) 5 Burr. 26 40, ante 2

the county of Kent, to a certain harbour upon the coast of his majesty's enemies, that is to say, to the harbour of Dunkirk, upon the coast of France, with intent to take on board certain spirits, to wit, Geneva and Brandy, against the statute, &c.

For taking stamps off bills of exchange to transfer them to others, on 12 Geo. 3. c. 48. (i)

[Commencement and conclusion as ante 57 to 67] for feloniously and fraudulently cutting, tearing, or getting off certain marks or stamps for three several bills of exchange, in respect of which certain stamp duties were payable, with intent fraudulently to use such stamps or marks upon certain other bills of exchange made by him the said C. D. in the city and county of the city of Exeter, to wit, a certain bill of exchange, dated the 5th day of January, 1805, drawn by the said C. D. on and accepted by Messrs. E. T. and Co. payable to his order for the sum of 100*l.* payable three months after date, and indorsed by him. One other bill of exchange of the same date and also drawn, accepted, and endorsed in the same manner, for 30*l.* payable three months after date. And one other bill of exchange of the same date, and drawn, accepted, and indorsed in like manner, for 20*l.* payable three months after date, with intent to defraud his majesty, contrary to the statute, &c.

For getting stamps off writs to put them on others, on 12 Geo. 3. c. 48

[Commencement* and conclusion as ante 57 to 67] for fraudulently and feloniously getting off six stamps, in respect whereof certain duties are denoted to be paid from three pieces of parchment, called writs, with intent to use such stamps for other writs, in respect whereof such duty is payable.

On 24 Geo. 3. c. 53. for transposing a stamp from one piece of plate to another (k)

[Commencement and conclusion as ante 57 to 67] for feloniously transposing and removing, and causing, and procuring to be transposed and removed from one piece of wrought plate to another piece of wrought plate, to wit, a cream pot, a certain mark, stamp, and impression, made with a certain mark and stamp, used by the company of goldsmiths in London, and with selling the said cream pot with the said transposed mark, stamp, and impression, well knowing the same to have been transposed as aforesaid, against the statute, &c.

[* 78]

FOR OFFENCES AGAINST PUBLIC JUSTICE.

For an assault on a constable in the execution of his office (l)

[Commencement and conclusion as ante 57 to 67] for assaulting, beating, bruising, and wounding one N. O. one of the constables of the parish of St. Giles, in the execution of his office, against the peace, &c.

For striking a watchman in the execution of his duty

[Commencement and conclusion as ante 57 to 67] with assaulting and striking one O. H. while in the execution of his duty as one of the watchmen of the parish aforesaid, and

(i) Ante 2 vol. 141.

(k) Ante 2nd vol. 141.

(l) See notes, 2 vol. 144.

for which offence, I, the said justice, have and do hereby adjudge her to forfeit the sum of five pounds of lawful money of Great Britain, which said sum hath been demanded of and from her the said Hannah Carroll, by me the said justice, but which she has refused to pay, &c.

[Commencement and conclusion as ante 57 to 67] upon the oath of ———, with having unlawfully and wilfully escaped from the house of correction at Clerkenwell, and from and out of the custody of the keeper thereof before the expiration of a certain term, for which he the said William Smith was ordered to be imprisoned and kept to hard labour therein, against the peace, &c.

tion of his office.

For escaping from the house of correction when there in execution of a sentence. (m)

[Commencement and conclusion as ante 57 to 67] for that he on, &c. last, being a prisoner in a certain prison, called Tothill Fields Bridewell, in the said county, in the lawful custody of Henry Bothwell, the keeper of the said prison, under and by virtue of a warrant of commitment under the hand and seal of William Phillips, esquire, one of his majesty's justices of the peace for the said county,* charged upon the oath of Henry Scambler, and his wife Catherine, with having knowingly and designedly, by the false pretence of his being the owner of a boat on the Paddington canal, obtained from him the said Henry Scambler a quantity of household furniture, of the value of twenty-seven pounds, eighteen shillings and sixpence, with intent to cheat and defraud him of the same, contrary to the statute, &c. did then and there unlawfully and forcibly break the said prison, and effect his escape out of and from the same, against the peace, &c.

For breaking a prison on commitment upon a charge of obtaining goods under false pretences. (n)

[* 79]

[Commencement and conclusion as ante 57 to 67] upon oath, with being an incorrigible rogue, for that he the said Henry Johnson being adjudged a rogue and vagabond, by the general quarter sessions of the peace holden for the said city and liberty, at the Guildhall, King-street, Westminster, on Thursday, the twenty-third day of October, one thousand eight hundred, and ordered to be kept and detained in the house of correction at Tothill Fields to hard labour for six months, did, on, &c. break or escape out of the said house of correction before the expiration of the term for which he was ordered to be confined, contrary to the statute, &c.

Commitment of a rogue and vagabond for breaking prison, whereby he became an incorrigible rogue, under 17 Geo. 2. c. 5.

[Commencement and conclusion as ante 57 to 67.] For that he the said C. D. having been convicted of grand larceny at the session of the general gaol delivery at Newgate held for the county of Middlesex, at Justice Hall, in the Old Bailey, on the thirteenth day of September last, and ordered to hard labour, for the space of two years, in removing sand, soil, and gravel from and cleaning the river Thames, did, on, &c. last, escape from the person or persons having the

For escaping from the lighters where defendant was in execution of a sentence.

(m) See notes, 2 vol. 159.

(n) See 2 vol. 159 to 165.

lawful custody of him, before the expiration of the term for which he was so ordered to hard labour, contrary to the statute, &c.

On suspicion of feloniously conveying instruments into a prison, in order to assist a prisoner to escape, on 16 Geo. 2. c. 31. s. 2. (o)

[Commencement and conclusion as ante 57 to 67.] On suspicion of feloniously conveying to one J. F. a prisoner in the House of Correction for the said county, a certain instrument, to wit, a skeleton key, without consent of the keeper of the said house, with intent to assist the said J. F. and divers other prisoners in making their escape, they the said J. F. and the said other prisoners having been convicted of felony, and being lawfully detained in the said House of Correction, in execution of their respective sentences, contrary to the form of the statute, &c.

For feloniously conveying instruments and a disguise into a prison, in order to assist the escape of a person charged with felony, on 16 Geo. 2. c. 31. s. 2. (p)

[* 80]

[Commencement and conclusion as ante 57 to 67.] For feloniously conveying instruments and disguise, to wit, women's apparel and a saw, into the prison of Tothill Fields Bridewell, in the city and liberty of Westminster and county of Middlesex, to aid, assist and procure the escape of W. L. and for personally aiding and* assisting the said W. L. in effecting the same; he the said W. L. being lawfully committed a prisoner to the said prison by a warrant of commitment under the hand and seal of G. R. esquire, one of his majesty's justices of the peace in and for the said city and liberty of Westminster, dated the 10th day of September last, and also detained on the 13th day of the said month of September, by warrant of detainer under the hands and seals of G. R. and G. M. esquires, two of his majesty's justices of the peace for the said city and liberty, he the said W. L. being charged before the said justices upon the oaths of G. W. and others, with falsely and feloniously forging two drafts for the payment of money, to wit, one for the payment of the sum of 15*l.* and the other for the payment of the sum of 48*l.* 18*s.* purporting to be the drafts of J. P. esquire, upon H. and R. D. and company, for the said several sums of money, and uttering the same as true drafts, knowing the same to be false, forged and counterfeit, with an intent to cheat and defraud the said H. and R. D. and company, and by means of which disguise and instruments, aid and assistance, the said W. L. did actually make his escape from and out of the said prison on the — day of September, 1774, contrary to the statute, &c.

For rescuing a prisoner out of the custody of one of the deputy keepers of the house of cor.

[Commencement and conclusion as ante 57 to 67.] For violently assaulting the said G. K. when he was in the lawful execution of his office, he being the servant employed by Mr. J. K. the Governor of the House of Correction at Clerkenwell, and then in his duty and service of his said master, and for unlawfully rescuing from his lawful custody

(o) See notes, 2 vol. 165 n. p. ante 2 vol. 165.

(p) See indictment and notes,

one L. M. who the said G. K. had in his custody, and was conveying to the said House of Correction, under a warrant of commitment of I. K. esquire, one of his majesty's justices of the peace for the said county, dated the 7th day of December, and for running his head in the face of the said G. K. stripping in his shirt, seizing him by the collar, and with menaces threatening and declaring, that, damn his eyes, he would knock his teeth down his throat, by means of which the prisoner A. B. was rescued from his custody, and him safely keep, &c.

[Commencement and conclusion as ante 57 to 67.] For feloniously rescuing C. M. in the Parish of St. Giles in the Fields, in the said county, when he the said C. M. was arrested by J. W. one of the constables of the Parish of St. Pancras, in the said county, for felony, that is to say, for stealing a quantity of grains, the property of the said A. B.

[Commencement and conclusion as ante 57 to 67.] For unlawfully, riotously and against the king's peace, rescuing and setting at* large one I. K. committed to the custody of them the said constables, to be conveyed to the common gaol of — in the county of Middlesex, for a felony, by virtue of a warrant under the hand and seal of me, the said justice, bearing date the — day of — instant.

[Commencement and conclusion as ante 57 to 67] For indecent behaviour by insulting and obstructing me, in the due execution of my office as a magistrate aforesaid, against the peace, &c.

[Commencement and conclusion as ante 57 to 67] with insolently and impudently misbehaving herself, when under examination before me the said justice J. L. J. C. and J. B. three of his majesty's justices of the peace for the said county, in talking obscenely and expressing herself with the greatest contempt, to us, the said justices, while and during the whole time she was under the said examination before us, against the peace, &c.

[Commencement and conclusion as ante 57 to 67] with feloniously being at large in the parish of St. Andrew, Holborn, in the city of London, on the 29th of June last, he the said R. H. not having complied with, and fulfilled the conditions annexed to his majesty's pardon to the said R. H. dated the 20th day of March last, for an highway robbery, for which he was tried and convicted at the Old Bailey, in the month of February, 1779, and received sentence of death for the same, contrary to the statute, and against the peace, &c.

(g) Toone 371.

Stamf. P. C. 73. Andr. 226. ante 1 vol. 112.

(r) This form is sufficient, see 2 Barnard. 155. Acc. Hawk. b. 2. c. 16. s. 16. contra. 14 East 85. 142. and see Dick. Sess. 47, 8.

(s) See last precedent and note, and ante 1 vol. 112.

For returning from transportation before the expiration of the term, on 16 Geo. 2. c. 15 s. 1. (t)

[*Commencement and conclusion as ante 57 to 67*] with feloniously, without any lawful cause, being at large within this kingdom, to wit, at the parish of St. Giles in the fields, in the said county, on the 16th of June instant, before the expiration of the term of seven years, for which he had been ordered to be transported, against the statute, &c.

For misde-meanour in concealing a felony (u)

[*Commencement and conclusion as ante 57 to 67*] for that he the said C. D. being present when a certain person feloniously, wilfully, and maliciously did shoot at A. B. esquire, with a pistol, loaded with gun powder and a leaden bullet, at, &c. and well knowing the said person, and intending to obstruct and hinder the due course of law and justice, unlawfully, wilfully, and contemptuously doth neglect, and refuse, and hath neglected and refused to disclose the name and residence of the said person, against the peace, &c.

Against a party for receiving a felon, as an accessory after the fact

[*Commencement* and conclusion as ante 57 to 67*] with being an accessory after the fact, that is to say, by relieving, comforting, and assisting J. H., a felon, after well knowing him to have done and have committed felony.

For riot, and feloniously beginning to demolish a house, on 1 Geo 1 s. 2, c. 5. s. 4. (w)

[*Commencement and conclusion as ante 57 to 67*] for unlawfully, riotously, tumultuously, and feloniously assembling with divers other persons, to the disturbance of the public peace, in Saint Martin's street, in the parish of St. Martin in the Fields, in the county of Middlesex, on Tuesday the 6th day of June, 1780, and with force beginning to demolish and pull down a certain dwelling-house there situate, belonging to A. B. esquire, contrary to the statute, &c.

[* 82]

FOR OFFENCES AGAINST PUBLIC PEACE.

For felony in continuing riot after the Riot Act has been read, on 1 Geo. I. s. 2, c. 5. s. 3. (x)

[*Commencement and conclusion as ante 57 to 67*] for that they the said A. B., &c. together with divers other persons to the number of twelve and more, on, &c. now instant, at, &c. being unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, and being then and there required by C. D. esquire, one of his majesty's Justices of the peace, in and for the said county, by proclamation, made in the king's name, in the town, directed by the statute in that case made and provided, to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, did then and there, to the number of twelve and more, (notwithstanding such proclamation made) feloniously, unlawfully, riotously and tumultuously remain and continue together by the space of one hour after such command and request made by proclamation as aforesaid, contrary to the statute, &c. and against the peace, &c.

(t) See notes, 2 vol. 215.

against the Riot Act.

(u) See 2 vol. 232. 1 vol. 3, 4.

(x) See notes 2 vol. as to offences

(w) See 2 vol. as to offences

ces under this act.

[Commencement and conclusion as ante 57 to 67] for being a rogue and vagabond, that is to say, by being apprehended by the said A. B. on the night of the 15th instant, in the parish of Saint George, Hanover Square, in the said county of Middlesex, having upon him a certain offensive weapon, called a pistol, with intent feloniously to assault some person or persons, contrary to the statute, &c.

For going armed in the night with an offensive weapon, with intent feloniously to assault some one

[Commencement and conclusion as ante 57 to 67] with riotously and tumultuously assembling with divers other persons in the parish of ——— and assaulting and beating one A. B. against the statute, &c.

For a tumultuous assembling with intent to assault upon 1 Geo. I. c. 5.

[Commencement and conclusion as ante 57 to 67] with riotously and tumultuously assembling together in the house of one G. H. at unseasonable hours in the night, in the parish of Saint Ann's in* the said county, and wilfully and maliciously breaking and destroying the goods and chattels of the said G. H. and threatening to knock him down.

For several persons riotously assembling together and breaking windows, &c.

on 1 Geo. I. c. 5, s. 1.

[* 83]

[Commencement and conclusion as ante 57 to 67] with riotously and tumultuously assembling together with a great many other persons, to the number of twenty and upwards, not yet taken, and wilfully and maliciously breaking and destroying the windows of the dwelling-house of the said E. F. in the parish of St. George, of Bloomsbury, and assaulting, and several times knocking down the said E. F. in his said dwelling, against the peace, &c.

For persons riotously assembling together and committing outrages, 1 Geo. I. c. 5. s. 1.

[Commencement and conclusion as ante 57 to 67] that on, &c. C. D. of ——— yeoman, at, &c. in a tumultuous manner, made an affray, wherein the person of the said A. B. was beaten and abused by them, the said C. D. and G. H. without any lawful or sufficient provocation given to them, or to any or either of them by him the said A. B.

For an affray. (y)

[Commencement and conclusion as ante 57 to 67] that on, &c. C. D. of ——— labourer, E. F. of ——— labourer, and G. H. of ——— yeoman, did in a tumultuous manner, and with force and arms, make an affray to the terror of his majesty's subjects, then and there being, wherein the said A. B. was assaulted, beaten, and abused by the said C. D. E. F. and G. H. without any just or reasonable cause.

The like in another form. (z)

FOR OFFENCES AGAINST PUBLIC TRADE.

[Commencement and conclusion as ante 57 to 67.] For that he the said A. B. after he had been found a bankrupt, upon a commission of bankrupt awarded against him, did feloniously remove, conceal and embezzle part of his estates

Against Bankrupt for concealing his effects, on 5

(y) Burn's J. Affray, V. J. Affray, IV.

(z) See Toone, 8. Williams, Crim. Law.

Geo. II c 30. to the value of twenty pounds and upwards, with intent to
s. 1 (a) defraud his creditors, against the statute, &c.

Against [Commencement and conclusion as ante 57 to 67.] For
Bankrupt for having feloniously omitted to surrender himself to a certain
not surren- commission of bankrupt, awarded and issued against him on
dering to his the 16th day of September, instant, at the Guildhall, in the
commission, city of London, being the day appointed in the London Ga-
on 5 Geo. II. zette, for the purpose of surrendering himself to the said
c. 30. s. 1. commission and finishing his examination, contrary to the
(b) statute, &c.

The like in [Commencement and conclusion as ante 57 to 67.] Upon
another the oath of W. D. T. on suspicion of being guilty of felony,
form for that he* having been duly declared a bankrupt, under and
[* 84] by virtue of a commission of bankruptcy, awarded and issued
against him, did not surrender himself to the commissioners
in the said commission named and authorised, within the
time appointed by them for that purpose, contrary to the
statute, &c.

For seducing [Commencement and conclusion as ante 57 to 67.] For con-
Artificers to tracting with, enticing, endeavouring to persuade, and solicit-
leave the ing I. C. a manufacturer and artificer of Great Britain, that is
kingdom, to say, a mill-wright, to go out of this kingdom into a foreign
under 5 Geo. country, out of his majesty's dominions, contrary to the sta-
I. c 2. (c) tute, &c.

For export- [Commencement and conclusion as ante 57 to 67.] For
ing glazed unlawfully carrying or procuring to be laden on board a cer-
paper used tain boat at Adelphi wharf, on the 28th day of February last,
in the wool- a large quantity of glazed paper which is and may be used
len manufac- in and proper for preparing, working, pressing, finishing and
tory, under completing of the woollen manufacture of this kingdom, and
21 Geo III. for unlawfully carrying and procuring the said paper on the
c. 37. (d) 28th day of February aforesaid, to be laden and put on board
a certain ship or vessel called the Remhold, then lying off
St. Catherine's stairs, on the river Thames, which said ship
was not bound directly to some port or place in Great Bri-
tain or Ireland, contrary to the statute in such case made and
provided.

Against Ar- [Commencement and conclusion as ante 57 to 67.] With
tifiers about having contracted to go, and being about to go out of his
to quit the majesty's dominions into a certain foreign country, to wit,
kingdom, on Russia, for the purpose of using and exercising their respec-
5 Geo. I. c. tive trades, against the statute, &c. Hereof fail not at your
27. s. 4. peril. Given, &c.

For procur- [Commencement and conclusion as ante 57 to 67.] Upon
ing imp'e. the oath of F. P. W. C. at the next Quarter Sessions of the
ments in the Peace, to be held at Bradford, in and for the West Riding of
cotton manu- the county of York, for a misdemeanour, to wit, having un-
facture to be made for ex-

(a) See notes under this head,
ante 2 vol.

(b) See notes under this head
ante 2 vol.

(c) See notes under this head,
2 vol.

(d) See notes under this head,
2 vol.

lawfully applied for and procured to be made by the said J. P. at Halifax, aforesaid, certain implements in and proper for the woollen and cotton manufacture of this kingdom, called cards, exceeding in value 4s per pair, and certain other implements proper for the like manufactures, called doffing combs, with intent to export the same to some other part or place than Great Britain and Ireland, or any of his majesty's colonies or plantations in America, contrary to the statute, &c.

[Commencement and conclusion as ante 57 to 67.] For having feloniously, wilfully, and maliciously, cut certain wrought silk, to wit, 55 yards of red satin, value 30l. the property of E. B. being in a certain loom used in the making thereof, belonging to him the said E. B. he the said A. B. not having the consent of the said* E. B. the owner thereof so to do, contrary to the statute, &c. [* 85]

FOR OFFENCES AGAINST PUBLIC POLICE.

[Commencement and conclusion as ante 57 to 67.] On suspicion of feloniously marrying one I. P. knowing his former wife S. R. to be living and resident in this kingdom, contrary to the statute, &c.

vol. and 1 East. P. C. c. 12. Toone, 63. See form ante 61

[Commencement and conclusion as ante 57 to 67.] For that he the said C. D. on, &c. at, &c. did marry one G. H. spinster, and her the said G. H. then and there had for his wife, and the said C. D. did marry and take to wife one L. S. spinster, the said G. H. his former wife, being then living, against the form of the statute, &c.

[Commencement and conclusion as ante 57 to 67.] For a misdemeanour, viz. dropping, leaving, and deserting at the Work-house door of the parish of Saint Giles in the Fields, in the said county, a female child, about six weeks old, which female child is become chargeable to the said parish, against the peace, &c.

[Commencement and conclusion as ante 57 to 67.] On suspicion of unlawfully dropping, leaving and deserting in the parish of Saint Ann, a female child, about eight months old, which child is become chargeable to the said parish, against the peace, &c.

[Commencement as ante 57 to 67.] Charged and convicted before me the said justice, upon the oaths of the said C. D. E. F. and others, of being a rogue and vagabond, to wit, for that he the said A. B. was apprehended by them the said C. D. E. F. and others, on Tuesday the 23d day of December instant, at the parish of Saint Mary, Islington, in the said

(e) Toone 63.

(f) See Burn, J. Vagrants. Vagrants. Toone, 102.

Williams, J. Vagrants. Dick, J.

portation, on 21 Geo. III. c. 6.

For feloniously cutting silk in the loom.

For bigamy, on 1 Jac. 1 c. 11. See notes under this head post 2

The like in another form. (e)

For a misdemeanour in leaving or dropping a child, where by it becomes chargeable to a parish.

Another in a different form.

Of a rogue and vagabond, taken with a dark lantern &c. intending to break into some house,

on 17 Geo. 2 c-5. county, then and there having upon him a dark lanthorn, an iron crow, a picklock key, a bottle of phosphorus, some matches and pieces of candles, with an intent feloniously to break and enter into some dwelling-house, warehouse, coach-house, stable or out-house; contrary to the statute in such case made and provided. Him therefore safely keep in your custody, until the next general Quarter Session of the Peace, to be held for the said county, to abide the judgment and determination of the justices in the said Session assembled, and until he shall be discharged by due course of law; and for so doing this shall be your sufficient warrant. Given under my hand and seal, this 31st day of December, 1800.

E. F. (L. S.)

For being a
rogue and
vagabond,
intending to
commit felo-
ny, under 17
Geo. II c. 5.

[* 86]

[Commencement as ante, 57 to 67. Conclusion as ante last precedent.] For that he is a rogue and vagabond, within the intent and meaning* of the statute, made in the seventeenth year in the reign of his late majesty King George the Second, intituled, an act to amend and render more effectual the laws relating to rogues, vagabonds, &c. namely, a person of evil fame and a reputed thief, and for that he was apprehended in the said county, on the — day of —, with intent then and there to commit felony, against the statute, &c.

Against a
rogue and
vagabond for
begging
about the
streets, un-
der 17 Geo.
II. c. 5. s. 7.

[Commencement and conclusion as ante 57 to 67.] Receive, &c. the body of A. B. brought before me C. D. esquire, by E. F. a constable upon the oath of G. H. with being a rogue and vagabond, viz. apprehended wandering and begging in the parish of Saint Mary-le-Bone, not having gained a legal settlement there, contrary to the statute, &c.

As a rogue
and vag-
abond, for
killing game,
39 and 40
Geo. III. c.
50.

[Commencement and conclusion as ante 57 to 67.] For that they did enter into and were found in a certain field in the night, that is to say, about one o'clock in the night of the twenty-fifth day of February instant, at the parish of Norwood, in the said county, having a certain gun and a certain net, for the purpose and with the intent to destroy, take, and kill certain hares and other game.

For being
found in an
inclosed
wood, for the
purpose of
killing game,
39 and 40
Geo. III. c.
50. (g)

[Commencement and conclusion as ante 57 to 67.] And charged and convicted on oath of G. W. and others of being a rogue and vagabond, that is to say, with having been found in a certain wood and enclosure ground, at the parish of Norwood, in the said county, in company with another man whose name is unknown, between the hours of ten at night and four in the morning of the fifth day of February instant, to wit, about the hour of eleven in the night of the same day, having a certain gun for the purpose and with the intent to destroy, take, and kill certain pheasants there being, contrary to the statute in such case made and provided.

For being a
rogue and
vagabond,
on 17 Geo.

[Commencement and conclusion as ante 57 to 67.] of being a rogue and vagabond within the meaning of the statute,

(g) See form, Burn, J. Vagrant T. 21 Ed.

made in the seventeenth year of his late majesty King George the Second, intituled an act to amend and make more effectual the laws relating to rogues and vagabonds, and other idle and disorderly persons; and to Houses of Correction, that is to say, he the said A. B. on, &c. being found in a certain inclosed yard belonging to the dwelling-house of C. D. situate and being in ——— street, in the parish of ———, in the said county of Middlesex, with intent the goods and chattels of the said C. D. to steal and take away, against the statute, &c.

II. c. 5. s. 27.
in being
found in a
yard, with
intent to
steal.

[Commencement and conclusion as ante 57 to 67] for that they had been apprehended by them on the night of Tuesday, the 23rd day of December instant, at the parish of Islington, in the said county, as rogues and vagabonds, to wit, then and there having upon* them a dark lanthorn, an iron crow, a picklock key, a bottle of phosphorus, some matches, and pieces of candles, with an intent feloniously to break and enter into some dwelling-house, warehouse, coach-house, stable, or out-house, contrary to the statute in that case made and provided. And they the said C. D. and E. F. having been so apprehended as rogues and vagabonds, and brought before me, the said justice, this day, and charged on oath as aforesaid, did each of them refuse to be examined upon oath before me, the said justice, of their condition and circumstances, and of the parish or place, or parishes or places, where they and each of them were last legally settled, contrary to the form of the statute in that case made and provided.

For being
incorrigible
rogues and
vagabonds,
on 17 Geo.
II. c. 5.
[* 87]

[Commencement and conclusion as ante 57 to 67.] Receive, &c. A. B. an incorrigible rogue, and charged and convicted on oath of C. D. of being an incorrigible rogue, being apprehended wandering and being in the parish of St. Giles in the Fields, in the said county, and having refused to be examined on oath touching his settlement, he the said A. B. being first informed of the pain and penalties of the law, on such refusal to be examined as aforesaid, contrary to the statute, &c. and him safely keep until the next sessions.

Another
against an
incorrigible
rogue, on 17
Geo. II. c. 5.

[Commencement and conclusion as ante 57 to 67] for that the said C. D. was yesterday, in the night, taken by the watch set by the constable of ——— wandering abroad, and lodging in barns, out-houses, or in the open air.

For night
walking.

[Commencement and conclusion as ante 57 to 67.] Receive, &c. A. B. upon the oath of C. D. a constable, with being a person of evil fame, viz. a common prostitute, apprehended at unseasonable hours in the night, in the public streets, picking up men for bawdy purposes, and her safely keep, &c.

Against
a prostitute
for walking
the streets.

[Commencement and conclusion as ante 57 to 67] with being a loose, idle, and disorderly apprentice, viz. absenting himself from his said master's service, laying out of nights without his leave or consent, and getting drunk, contrary to the statute, &c.

For a disorderly
apprentice at
whose binding
out a
larger sum

than five pounds was paid, on 5 Eliz. c. 4. s. 25.

For persons apprehended gambling in the fields.

[Commencement and conclusion as ante 57 to 67] with being a person of evil fame, viz. apprehended in the fields, tossing up and playing at unlawful games, in the parish of St. Giles in the Fields, in the said county, and not giving a good account of himself, against the peace, &c.

Of a disorderly woman for want of sureties.

[Commencement and conclusion as ante 57 to 67] with being an idle and disorderly person, and of evil fame, and against the peace, &c. and, on her examination, and not giving a good account of herself or her way of living. Her therefore safely keep in your said custody, for want of sureties, until she shall be discharged by* due course of law; and for so doing this shall be your sufficient warrant. Given under my hand and seal, this — day of — one thousand eight hundred and —

[* 88]

For want of sureties to keep the peace, when required so to do.

Westmoreland. To the constable of — and to the keeper of — in the said county.

Whereas A. O. of — in the said county, yeoman, is now brought before me, John Shaw, esquire, one of the justices of our lord the king, assigned to keep the peace in and for the said county, requiring him to find sufficient sureties, to be bound with him in a recognizance for his personal appearance, at the next general Quarter Sessions of the peace, to be holden in and for the said county, and in the mean time to keep the peace, (or to be of good behaviour) towards our said lord the king, and all his liege people, and especially towards A. J. of — in the said county, yeoman, and whereas he the said A. O. hath refused, and doth now refuse before me to find such sureties. These are therefore in the name of our said lord the king to command you, the said constable, forthwith to convey the said A. O. to the common gaol of our said lord the king, (or to the house of correction,) at — in the said county, and to deliver him to the keeper thereof, there, together with this precept, and I do, in the name of our said lord the king, hereby command you, the said keeper, to receive the said A. O. into your custody in the said gaol, (or house of correction,) and him there safely to keep, until he shall find such sureties as aforesaid. Given under my hand and seal, at Kirkby in Kindale, in the said county of —, the — day of in the — year of the reign of our said lord George the third of the united kingdom of Great Britain and Ireland, king, &c.

The like in another form.

Surrey, (to wit.) Whereby A. B. hath this day required sureties of the peace before me, one of his majesty's justices assigned to keep the peace within the said county, against C. D. and withal hath taken his corporal oath before me, that he requireth the same, not from any private malice, hatred, or evil will, but simply that he apprehends that he goes in danger of his life, or that some bodily harm will be done, or caused to be done unto him by the said C. D. in breach of the peace, &c. And whereas the said C. D. is now brought be-

fore me, and required by me, to find sufficient sureties, as well for his personal appearance at the next general Quarter Session of the peace to be holden in and for the said county, as also that he shall, in the mean time, keep the peace, as well towards our said lord the king, as towards all his liege people, and especially towards the said A. B. And whereas the said C. D. hath refused, and doth now refuse, before me, to find such sureties. These are, therefore, in his majesty's name, to command you,* the said constable, to convey the said C. D. to the said keeper; and you the said keeper are hereby required to receive and safely keep him in your said gaol, until he shall find such sureties as aforesaid, or shall be thence discharged by due course of law. And for so doing this shall be your sufficient warrant. Given under my hand and seal this ——— day of ——— A. D. 1816. [* 89]

E. F. (L. S.)

[Commencement and conclusion as ante 57 to 67] for that he the said Robert Roe, being a subject of his majesty, was on, &c. at the parish, &c. found assisting in carrying away, conveying, or concealing six casks of foreign Geneva or spirits, (the said 6 gallons of foreign Geneva, or spirits, being subject to forfeiture, under and by virtue of a certain act or acts of parliament, relating to the revenue of customs or excise in the united kingdom) contrary to the form of an act of parliament, made and passed in the 45th year of the reign of his present majesty, king George the third, intituled "An act for the more effectual prevention of smuggling." Him, therefore, safely keep in your said custody, for want of two good and sufficient sureties in the sum of 100*l.* each for his appearance, to answer to an indictment or information that may be brought against him in that behalf, and to pay such penalty, and abide any judgment for such offence, or until he shall be discharged by due course of law, and for so doing this, &c. For want of sureties under the 45 Geo. III. c. 121. s. 7, for assisting in smuggling, &c.

Surrey, (to wit.) Whereas A. B. hath been apprehended, and is now brought before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, by C. D. a constable, and it appearing to me, on the oath of the said C. D. a credible witness, that the said A. B. is a person of evil fame, and a reputed thief, and on the ——— day of ——— now instant was in a certain public house, called ——— in the parish of ——— in the county aforesaid, with intent to commit felony on the persons and property of his majesty's subjects there being; and the said A. B. not being able to give a satisfactory account of himself, and of his way of living, and it appearing to the satisfaction of me the said justice, that there is just ground to believe that the said A. B. was in such public house with such intent as aforesaid, I do therefore deem and adjudge the said A. B. to be a rogue and vagabond, within the intent and meaning of the For being a reputed thief, on 17 Geo. II. c. 5.

[* 90]

statute made in the seventeenth year of his late majesty king George the Second, intituled, " An act to amend, and make more effectual, the laws relating to rogues, vagabonds, and other idle and disorderly persons, and to houses of correction." These are, therefore, in his majesty's name, to command you the said constable, to convey the said C. D. to the said keeper, and you the said keeper are hereby required to receive, and safely keep him in your said house of correction, until the next General Quarter Session* of the peace, to be holden for the said county, and have you him then there, to be further dealt with according to law. Given under my hand and seal, at the police office aforesaid, this — day of — in the year of our Lord, one thousand eight hundred and sixteen.

E. F. (L. S.)

OFFENCES AGAINST PERSONS.

Wilful murder against principals, in the first and second degree (g)

[*Commencement and conclusion as ante 57 to 67*] for being guilty of the wilful murder of A. B. (to wit,) the said C. D. for feloniously, wilfully, and maliciously firing a pistol, loaded with powder and ball, at the said A. B. and giving to him one mortal wound of which he instantly died, and the said G. H. and I. K. for being present, aiding, and abetting in the said fact.

For murder by giving mortal wounds.

[*Commencement and conclusion as ante 57 to 67*] for the wilful murder of one A. B. by feloniously assaulting the said A. B. and giving him several mortal wounds, of which said mortal wounds he languished a short time, and then died.

On suspicion of wilfully driving a hackney coach over a child, and killing him.

[*Commencement and conclusion as ante 57 to 67*] on suspicion of wilfully driving his hackney coach, drawn by two horses, over the body of M. C. an infant of the age of four years, daughter of J. C. and thereby violently wounding and bruising her, of which wounds and bruises she languished and died.

For feloniously administering poison, on 43 Geo. III. c. 58 s. 1. (h)

[*Commencement and conclusion as ante 57 to 67*] with feloniously, wilfully, maliciously, and unlawfully administering to A. B. a certain deadly poison, called Arsenic, with intent the said A. B. thereby to murder, against the statute, &c.

For malicious shooting, on 43. Geo. III, c. 58.

[*Commencement and conclusion as ante 57 to 67*] for feloniously, wilfully, maliciously, and unlawfully shooting at R. C. with a certain gun loaded with gunpowder and leaden shot, on the 14th day of May instant, at the parish of Sunbury, in the said county, against the statute, &c.

The like in another form.

[*Commencement and conclusion as ante 57 to 67.*] Being charged before me of felony, in wilfully and maliciously presenting and levelling a loaded gun, and in attempting, by

(g) See notes under this head, 2 vol.

(h) See notes under this head, 2 vol.

drawing the trigger thereof, to discharge the same at J. C. with an intent to do him some bodily harm, against the statute, &c.

[Commencement and conclusion as ante 57 to 67.] Being charged before us of felony, in being an aider and abettor in presenting and levelling a loaded gun, and attempting, by drawing the trigger thereof, to discharge the same at J. C. with an intent to do him some bodily harm, against the statute, &c.

For aiding and abetting in the like offence.

[Commencement and conclusion as ante 57 to 67.] Charged before me, on the oath of J. G. constable of the parish of Elden, T. G. and J. M. of Elden aforesaid, with being in the preserves of W. N. of Elden aforesaid, esquire, armed with bludgeons and an air gun, between the hours of two and three o'clock this morning, contrary to the form of the statute in that case made and provided, and having maimed and disfigured the said J. G. and T. G. then and there endeavouring to apprehend them the said R. B. and W. R. contrary to the form of the statute made in the forty-third year of the reign of his present majesty.

[* 91] Another form on the same act, for being in preserves for game in the night, and maiming persons endeavouring to apprehend them. (i)

[Commencement and conclusion as ante 57 to 67] with being a person of a wicked mind and disposition, and maliciously intending to poison the said E. F. her mistress, on, &c. did, knowingly, wilfully, and maliciously put a certain quantity of arsenic (being a deadly poison) into a teapot filled with water and tea, which the said E. F. was then and there going to drink, and did drink, whereby she became and was violently distempered and in danger of losing her life, against the peace, &c.

For a misdemeanour in attempting to poison.

[Commencement and conclusion as ante 57 to 67] with feloniously assaulting him the said A. B. on the king's highway, in the county of Middlesex, putting him in fear, and taking from his person and against his will, one silver watch and one purse containing five promissory notes of the governor and company of the bank of England for the payment of one pound each, the property of him the said A. B. against the peace, &c.

For a highway robbery. (k)

[Commencement and conclusion as ante 57 to 67.] For that on, &c. now instant, at, &c. in the king's highway, there in and upon the said A. B. then and there being, feloniously did make an assault, and him the said A. B. in bodily fear and danger of his life in the highway aforesaid then and there feloniously did put, and [here set out the goods] of the value of —/ of the goods and chattels of the said A. B. from the person and against the will of the said A. B. in the highway aforesaid, then and there feloniously and violently did steal, take, and carry away, against the peace, &c.

Another form for a highway robbery.

(i) This form does not seem framed according to 43 Geo. III. c. 58. (k) See notes under this head, 2 vol.

The like in another form for a highway robbery.

[Commencement and conclusion as ante 57 to 67] with feloniously assaulting C. D. on the king's highway in the parish of St. Pancras in the county of Middlesex, putting him in fear, and feloniously taking from the person of the said C. D. a gold watch of the value of 10*l.* the property of the said C. D. against the peace, &c.

Against accessories after the fact of a highway robbery, in assisting the principal offender.

[* 92]

[Commencement and conclusion as ante 57 to 67] for being an accessory after the fact, that is to say, by harbouring, relieving, comforting, and assisting one R. D. G. after he the said R. D. G. had* feloniously assaulted the said A. B. on the said king's highway, putting him in fear and feloniously taking from his person a gold watch and seals and some money his property, he the said C. D. well knowing the said R. D. G. to have done and committed the said felony, against the peace, &c.

Being an accessory after the fact of a highwayman.

[Commencement and conclusion as ante 57 to 67] for being accessory after the fact, that is to say, by harbouring, relieving, comforting, and assisting one I. H. to make his escape after he had feloniously assaulted C. D. on the king's highway, put him in fear, and feloniously taken from his person [*here state the goods taken*] the property of the said C. D. he the said A. B. well knowing I. H. to have done and committed the said felony and robbery against the peace, &c.

For Mayhem.
(l)

[Commencement and conclusion as ante 57 to 67] that whereas the said R. W. hath now lately dangerously hurt one J. T. of F. within the said county of Cambridge, yeoman, giving him divers blows on the head, face, and left side with a bill, so as the said J. T. is in danger of death thereby.

For throwing a bottle from the gallery of Covent Garden theatre at one of the performers.

[Commencement and conclusion as ante 57 to 67] with having this evening thrown a quart glass bottle from the slips of the two shilling gallery of Covent Garden theatre, and violently assaulted and struck the said T. W. B. while performing on the stage there, against the peace, &c.

For a violent assault and battery.

[Commencement and conclusion as ante 57 to 67] that C. D. late of, &c. did on the morning of Monday, the 1st day of this instant, January, violently assault and beat him the said A. B. in his the said A. B.'s dwelling-house, at, &c. aforesaid.

Against an overseer of the poor for an assault upon a person entitled to relief, an application to him to grant it.

[Commencement and conclusion as ante 57 to 67] for that he the said A. B. so being one of the overseers, having received satisfaction for the sustenance and maintenance of a bastard child begotten and born upon the body of the said R. S. and upon hearing the said R. S. applying to him for one month's sustenance and maintenance for the said child, he the said A. B. did violently assault and beat the said R. S. against the peace, &c.

(l) See Dalton. J. c. 176. c. 483. id. c. 174. p. 46.

(m) See notes on assaults 2 vol.

[Commencement and conclusion as ante 57 to 67] with having on the, &c. at the parish of, &c. in the said county, assaulted and beat A. B. in the breach of the peace, &c. For a common assault until defendant finds sureties. (n)

[Commencement and conclusion as ante 57 to 67] for assaulting, beating, bruising, and wounding one G. H. against the peace, &c. For an assault and wounding.

[Commencement* and conclusion as ante 57 to 67] for wilfully, maliciously, and feloniously assaulting M. R. in a certain public street called King's road, in the parish of St. Andrew, Holborn, in the said county, with an intent to spoil, burn, and deface the garments and clothes, of the said M. R. and then and there wilfully, maliciously, and feloniously did spoil, burn, and deface the clothes and garments of the said M. R. against the statute, &c. For assault- ing a woman, and burning her clothes. 36 Geo. I. c. 23. s. 11. (n) [* 93]

[Commencement and conclusion as ante 57 to 67] on suspicion of wilfully, maliciously, and feloniously assaulting A. B. in a certain public street called Long Acre, in the said county, with an intent to spoil, burn, and deface the garments and clothes of the said A. B. and then and there wilfully, maliciously, and feloniously did spoil, burn, and deface the garments and clothes of the said A. B. against the statute, &c. The like on suspicion of a similar offence.

[Commencement and conclusion as ante 57 to 67] for a misdemeanor, viz. kidnapping, enticing, and stealing away one R. H. a boy under fifteen years of age, and one of his majesty's liege subjects, and unlawfully detaining him in their custody, in order to transport and convey him the said R. H. out of this kingdom against his will and consent, and by force and violence putting him on board a ship for that purpose, against the peace, &c. For a misdemeanor in kidnapping a boy. (e)

[Commencement and conclusion as ante 57 to 67] they standing indicted at the delivery of the king's gaol of Newgate holden for the county of Middlesex, on the 13th day of January last, for knowingly, and feloniously sending to one T. N. of, &c. baker, a certain letter in writing without any name subscribed thereto, directed to the said T. N. demanding certain valuable things, to wit, six half-peck loaves and eight pounds of cheese, against the statute, upon which indictment they the said J. G., R. B. and R. G. have not, as yet, been arraigned on trial, as appears by a certificate under the hand of T. S. clerk of the session of gaol delivery. Hereof fail not at your peril. For sending a threatening letter after indictment found on 52 Geo. II. c. 24. (p)

[Commencement and conclusion as ante 57 to 67.] For knowingly sending two certain letters to A. B. with the For sending letters, threatening

(n) See ante 64.

ante 2 vol.

(n) See notes on this head, ante 2 vol. & 1 Leach 529.

(p) See notes under this head 2 vol.

(o) See notes under this head,

to accuse a person with a capital offence

[* 94]

On 20 Geo. II. c. 24. for sending a letter threatening to accuse a person of a capital offence.

(p)

On 20 Geo. II. c. 24. for sending a letter threatening to accuse a person of an offence punishable with transportation

For obtaining money by threatening to accuse a man of murder.

For verbally threatening to murder

For sending a challenge and not finding sureties.

(g)

For a rape.

(r)

name C. D. subscribed thereto, threatening to accuse the said A. B. of a crime punishable by law with death, with a view to and intent to extort and gain money, goods, wares or merchandizes from the said A. B. so threatened to be accused, contrary to the statute, &c.

[Commencement* and conclusion as ante 57 to 67] on suspicion of unlawfully and knowingly sending a certain letter or writing, with a certain name and letter thereto subscribed, to wit, G. E. threatening to accuse him the said A. B. with a crime punishable by law with death, with a view and intent to extort money from the said C. D. the person threatened to be accused, against the statute, &c.

[Commencement and conclusion as ante 57 to 67.] To answer all such matters and things as on his majesty's behalf are on oath objected against him by the Honourable Basil Cochrane, and another, for unlawfully and knowingly sending a certain letter to the said B. C. at Ramsgate, in the county of Kent, threatening to accuse him of a certain crime punishable by law with transportation, or with an infamous punishment, with a view and intent to extort money from him the said B. against the statute, &c. against the peace, &c.

[Commencement and conclusion as ante 57 to 67] for unlawfully extorting and obtaining from the said Robert Tilbury the sum of six shillings, his money, by unjustly and wrongfully threatening to charge and accuse the said Robert Tilbury with murder, with intent to cheat and defraud the said R. T. against the statute, &c.

[Commencement and conclusion as ante 57 to 67] for several times threatening to murder one E. F. as he verily believes, &c.

[Commencement and conclusion as ante 57 to 67] with having sent a challenge to Sir J. B. Baronet, to fight a duel with and against him the said R. T. against the peace, &c. and being now required by me to enter into recognizance himself in the sum of five hundred pounds, with two sufficient sureties, in the sum of two hundred and fifty pounds each, for his personal appearance at the next general quarter sessions of the peace to be holden next after the expiration of one year from this day, to answer what shall be objected against him, and in the mean time to keep the peace towards the said Sir J. L. J. and all his majesty's liege subjects. And the said R. F. now neglecting and refusing to enter into recognizance with such sureties as aforesaid; him safely keep, &c.

[Commencement and conclusion as ante 57 to 67] with feloniously assaulting A. B. spinster, in the parish of St. Giles in the Fields, in the said county; and by force having carnal

(p) See notes 2 vol.

(r) See notes under this head

(g) See notes under this head 2 vol. and ante 58.

knowledge of her body against her will and consent, against the peace, &c.

[Commencement* and conclusion as ante 57 to 67] for a certain trespass and assault upon one E. N. spinster, with intent her the said E. N. carnally to know against her will and consent.

[* 95]

For an assault with intent to commit a rape. (s)

[Commencement and conclusion as ante 57 to 67] upon the oath of Rachel Fanny Antonina Lee, wife to Matthew Allen Lee, esquire, Janet Davidson, and others, with feloniously and unlawfully taking the said Rachel Fanny Antonina Lee, from her house in Bolton Row, Piccadilly, against her will, for the lucre of substance and defiling her, at Tetsworth, in the county of Oxford, contrary to the statute, &c.

For forcibly taking away and defiling a woman of substance, on 3 Hen VII c. 2. clergy taken away by 39 Eliz. c. 9. (t)

OFFENCES AGAINST PERSONAL PROPERTY.

[Commencement and conclusion as ante 57 to 67] with feloniously stealing, taking, and carrying away two pairs of trousers, two pairs of breeches, and other articles, the property of the said A. B. and of the value of ten shillings, against the peace, &c. him therefore, &c.

For grand larceny. (u)

[Commencement and conclusion as ante 57 to 67] with a felony by him committed, in stealing one silver tankard, of the value of twenty pounds, the property of A. B. of ———, in the said county, yeoman.

The like in another form.

[Commencement and conclusion as ante 57 to 67] with having on, &c. now instant, at, &c. feloniously stolen, taken, and carried away, [*here set out the goods*] of the value of ——— pounds, of the goods and chattels of the said A. B. against the peace, &c.

Another form.

[Commencement and conclusion as ante 57 to 67] that this present day divers goods belonging to him, to wit, [*describe the goods stolen*] have feloniously been stolen, taken, and carried away from his ——— at ———, in the said county; and that he hath just cause to suspect that C. D. of, &c. feloniously did steal, take, and carry away the same.

On suspicion of grand larceny. (x)

[Commencement and conclusion as ante 57 to 67] the said T. G. with having on, &c. at the hamlet of Mile End, Old-Town, in the said county, feloniously stolen, taken, and carried away one truss of straw, the property of the said D. A. and of the value of one shilling and sixpence, and the said J. T. with having feloniously received the said truss of straw, of and from the said T. G. well knowing the same to have been then and there feloniously stolen as aforesaid, against the peace, &c.

Against two persons, one for stealing goods, and the other for receiving them, knowing them to be stolen.

[* 96]

[Commencement* and conclusion as ante 57 to 67] with having been guilty of a certain misdemeanour, that is to say,

For a misdemeanour attempting to steal.

(s) See same head 2 vol.

(u) See notes, ante 2 vol. 60.

(t) See notes under this head 2 vol.

(x) See notes 2 vol.

with having unlawfully put his hand into the coat pocket of the said E. F. with intent feloniously to steal, take and carry away the goods and chattels therein being, against the peace, &c.

For felony,
by horse
stealing, on
1 Edw. VI.
c. 12. s. 10 2
and 3 Edw.
VI. c. 23. 3
and 4 W. and M. c. 9. (y)

[*Commencement and conclusion as ante 57 to 67*] for feloniously stealing, taking, and leading away, [or, if oxen, cows, or sheep, "driving away"] at ———, in the county aforesaid, one gelding of a bay colour, of the value of ——— pounds, of the goods and chattels of him the said A. B. against the statute, &c.

For suspi-
cion of steal-
ing a mare.

[*Commencement and conclusion as ante 57 to 67*] for suspicion of felony by him, as it is said, committed in stealing a bay mare, of the value of ———, the property of A. B. of, &c. gent.

For felony,
by sheep
stealing on
14 Geo. II. c.
6. (z)

[*Commencement and conclusion as ante 57 to 67*] with wilfully and feloniously killing, in the county of Essex, a certain sheep of the value of thirty shillings, of the goods and chattels of the said Richard Davies, with intent feloniously to steal the carcase of the same, against the statute, &c.

For a misde-
meanour in
stealing fish
in a garden,
on 5. Geo.
III. c. 14. s.
1. (a)

[*Commencement and conclusion as ante 57 to 67*] with entering into a certain garden belonging to the dwelling-house of his majesty, and stealing, taking, and destroying certain fish belonging to his majesty, in a certain river and stream of water in the said garden, wherein fish are bred, kept, and preserved, without the consent of the owner thereof, against the statute, &c.

For a misde-
meanour in
stealing fish
in an inclos-
ed pond, on
5 Geo. III. c.
14. s. 1.

[*Commencement and conclusion as ante 57 to 67*] on suspicion of unlawfully stealing and taking in a certain pond in a certain inclosed park, near Isleworth, in the said county, divers fish, bred, kept and preserved in the said pond, without the consent of his Grace the Duke of Northumberland, the owner thereof, against the statute, &c.

Stealing
plants.

[*Commencement and conclusion as ante 57 to 67*] for feloniously breaking open, &c. and there spoiling, and carrying away in the night time, in the county of Middlesex, two certain pine apple plants, of the value of five shillings, and which were growing, standing, and being, in the inclosed garden ground of A. B. esquire, at Wanstead, in the said county of Essex.

For robbing
a wreck on
26 Geo. II.
c. 19.
[* 97]

[*Commencement and conclusion as ante 57 to 67*] with feloniously plundering, stealing, taking, and carrying away, upon the high* seas, within the jurisdiction of the Admiralty of England, to wit, about five miles from Deal, in the county of Kent, twelve puncheons of rum, of the value of 100/. four hogsheads of sugar, of the value of 100/. and two tierces of

(y) See notes under this head 2 vol. and 2 East, P. C. 616, 7.
2 vol. 2 East, P. C. 614, 5. (a) See notes under this head
(z) See notes under this head, 2 vol. and 2 East P. C. 611, 2.

coffee of the value of 20*l.* of the goods and chattels and merchandize of A. B. from a certain ship called the Endymion, belonging to the said A. B. a subject of our lord the king, the said ship being then and there wrecked, against the statute ; therefore, &c.

[*Commencement and conclusion as ante 57 to 67.*] With feloniously breaking and entering the dwelling-house of the said C. D. in the day time, the said C. D. and others of her family being therein, and feloniously stealing, taking, and carrying away in the said dwelling-house, one counterpane, the property of the said C. D. against the peace, &c. and stealing property, on 5, &c. W. & M. c. 9. (c)

[*Commencement and conclusion as ante 57 to 67.*] For feloniously robbing A. B. of a silver watch, on Monday the day of ———, in the dwelling-house of ———, called the sign of the ———, at ———, in the parish of ———, in the county of ———, and he the said A. B. being therein, and put in fear by the said C. D. contrary to the statute, &c. in fear, on 3 & 4 W & M. c. 9. (d)

[*Commencement and conclusion as ante 57 to 67.*] For feloniously stealing, taking, and carrying away, several silver medals and a quantity of silver plate of the value of forty shillings and more, the same being in the dwelling-house of A. B. situate at Deptford, in the county of Kent, and the property of the said A. B. For feloniously stealing in a dwelling-house to the amount of 4*l.*s. on 12 Ann. s. 1. (e)

[*Commencement and conclusion as ante 57 to 67.*] With having feloniously and burglariously in the night of the thirty-first day of December now last past, the dwelling-house of him the said A. B. at ———, aforesaid, in the county aforesaid, broken open, and one silver tankard of the value of twenty pounds, of the goods and chattels of him the said A. B. feloniously and burglariously stolen, taken and carried away from thence. Burglary and stealing a silver tankard. (f)

[*Commencement and conclusion as ante 57 to 67.*] With feloniously and privately stealing, taking, and carrying away in the shop of the said T. U. in the parish of Saint George, Hanover Square, in the city and liberty of Westminster and county of Middlesex, twenty-one yards of printed linen, of the value of forty shillings,* the goods and property of the said T. U. contrary to the statute, &c. For felony in privately stealing in a shop, on 10 and 11 W. 3. chap. 23, s. 1 (g) [* 98]

[*Commencement and conclusion as ante 57 to 67.*] For feloniously stealing, taking, and carrying away out of and from a certain bleaching ground, at Mitcham, in the county of Surrey, For felony in stealing from a bleaching

(b) See notes on this subject, 2 vol. and 2 East, P. C. 606, 7.

(c) See notes, ante 2 vol.

(d) See notes on this head, 2 vol.

(e) See notes, ante 2 vol.

(f) See notes under this head, 2 vol. and see post 112.

(g) See notes on this head, 2 vol.

ground, on 18 Geo. II c. 27. (h) made use of by A. B. a bleacher for bleaching linen, cotton, and other goods, one piece of Russia sheeting above the value of ten shillings, the same being placed and exposed to be bleached in the said bleaching ground by A. B. aforesaid, the owner thereof; contrary to the statute, &c.

On suspicion of stealing in a dwelling-house on 12 Ann s. 1. c. 7. [Commencement and conclusion as ante 57 to 67.] For that on this — divers goods and chattels, that is to say, &c. [here set forth the goods] the said C. D. feloniously did steal, take, and carry away from the house of the said A. B. situate at —, aforesaid, in the county aforesaid, contrary to the statute, &c.

On suspicion of burglariously stealing a horse from a stable, on 59 Eliz. c. 15. (k) [Commencement and conclusion as ante 57 to 67.] For that the said C. D. on the night —, the stable of the said A. B. adjoining to the dwelling-house of him the said A. B. at —, aforesaid, feloniously and burglariously broke open, and one black mare, the property of him the said A. B. feloniously and burglariously did steal, take, and carry away from thence, contrary to the statute, &c.

LARCENY FROM PERSON.

For felony in privately stealing from the person, on 8 Eliz. c. 4 (i) [Commencement and conclusion as ante 57 to 67.] For feloniously taking from the person of the said A. B. privily without his knowledge, a metal watch, the property of the said A. B.

For an attempt to steal from the person, for want of sureties. [Commencement and conclusion as ante 57 to 67.] With having been guilty of a certain misdemeanour, that is to say, with having unlawfully put his hand into the coat pocket of the said E. F. with intent feloniously to steal, take, and carry away the goods and chattels therein being, against the peace, &c. Him therefore safely keep in your said custody, for want of sureties and until he shall be discharged by due course of law, &c.

LARCENY, &c. BY PARTICULAR PERSONS.

Against a clerk for embezzling, on 21 Hen. VIII. c. 7. revived by 5 Eliz. c. 10 (l) [Commencement and conclusion as ante, 57 to 67.] For that the said C. D. being a clerk to the said A. D. and employed and entrusted by him to receive money for and on his account, did on, &c. receive and take into his custody, for and on the account of his said master and employer, the sum of 25*l.* and afterwards, to wit, on the same day, did feloniously embezzle and secrete part thereof, to wit, the sum of 10*l.* against the statute, &c.

[* 99] For stealing effects of [Commencement* and conclusion as ante 57 to 67.] For that he the said R. B. being an officer and servant of the governor

(h) See notes, ante 2 vol. 638.

(i) See notes 2 vol.

(l) See notes under this head,

(k) Burn J. Horses VI, and 2 vol. 2 East, P. C. 560.
see notes 2 vol. and 2 East, P. C.

and company of the Bank of England, and being entrusted the bank with effects of the said governor and company, did feloniously secrete, embezzle, and run away with, in the city of London, certain of such effects, and particularly a note of the said governor and company, for 50*l.* contrary to the statute, &c.

[*Commencement and conclusion as ante 57 to 67.*] For that the said A. B. being a person employed as a sorter of letters in the general post office in London, feloniously did steal and take from and out of a letter, which came into his hands as such sorter as aforesaid, a certain bill of exchange for the payment and of the value of 80*l.* the property of S. L. against the statute, &c.

Against a sorter of letters for stealing a bill of exchange out of a letter in the post office (n) 13. s. 12. (m)

[*Commencement and conclusion as ante 57 to 67.*] For feloniously secreting in the county of Middlesex, a certain letter which had come to his hands and possession, by virtue of his employment as a letter carrier in the general post office, and feloniously stealing and taking out of the said letter a certain bill of exchange for the payment of thirty pounds, contrary to the statute, &c.

Against a letter carrier in the post office for secreting letters, on 5 Geo. III. c. 25.

[*Commencement and conclusion as ante 57 to 67.*] For that he being a person employed in the general post office, London, did feloniously secrete in the city of London, a certain letter containing ten notes of the Stratford-upon-Avon Bank, for the payment and of the value of 100*l.* and did feloniously embezzle the said notes and convert them to his own use, against the statute, &c.

For stealing a letter containing bank notes in the general post office against a person employed there in, on 5 Geo. III. c. 25.

[*Commencement and conclusion as ante 57 to 67.*] For that he the said A. B. being a person employed in certain business relating to the post office, feloniously did steal and take out of a certain letter which came to his hands and possession, a certain bank note of the payment and of the value of forty pounds, the property of the said E. F. and for that the said C. D. well knowing the said A. B. to be a person so employed as aforesaid, did with a fraudulent intention receive the said bank note of the said A. B. he the said C. D. at the time of receiving thereof, well knowing the same to have been stolen out of the said letter by the said A. B. being so employed as aforesaid, against the statute, &c.

Against a person employed on business relating to the post office, for feloniously stealing a bank note from a letter, and another for a misdemeanour in receiving it, on 5 Geo. III. c. 25.

[*Commencement and conclusion as ante 57 to 67.*] With feloniously taking and carrying away in his ready furnished lodgings let by contract, one pair of sheets and other things, of the value of 30*s.** the goods and property of the said L. N. contrary to the statute, &c.

Against a lodger for robbing his ready furnished lodgings, on 5 W. and M. c. 9. s. 5 (o) [* 100]

(m) See notes under this head, 584.

2 vol. and 2 East, P. C. 578, 9.

(n) See notes under this head, East. P. C. 585 to 587.

2 vol. and 2 East. P. C. 579 to

Against a lodger for carrying away property with intent to steal it, on 3 W. and M. c. 9. s. 5. [Commencement and conclusion as ante 57 to 67.] With taking away with an intent to steal, embezzle or purloin, two linen sheets, two woollen blankets, two pillow bears, and four curtains, the chattels, bedding, and furniture of the said Ann, let by her to the said Telemachus by contract, to use in a certain furnished lodging, against the statute.

Against an attorney for disposing of a bill of exchange entrusted to him. (p) [Commencement and conclusion as ante 57 to 67.] For that he the said J. D. being employed as the attorney of the said E. M. and the said E. M. having deposited with the said J. D. as such attorney, upon and for a certain special purpose, a bill of exchange for the payment of the value of 30*l.* the property of the said E. M. he the said J. D. without any authority whatsoever from the said E. M. to sell or pledge such bill, unlawfully did negotiate, transfer, assign and apply to his own use and benefit the said bill, in violation of good faith, and contrary to the special purpose for which the said bill was deposited with him, and with intent to defraud the said E. M. the owner of the said bill, thereof, against the statute, &c.

MAIL ROBBERIES.

For a robbery of the mail, on 52 Geo III. c. 143. [Commencement and conclusion as ante 57 to 67.] On suspicion of feloniously stealing, taking, and carrying away in the county of Northampton, from and out of a certain bag or mail of letters, sent by the post from Kettering, in Northamptonshire, for and towards London, a certain letter containing divers bank and promissory notes, the property of Messrs. K. and G. Bankers, at Kettering, aforesaid, against the statute, &c.

For robbery of the mail. [Commencement and conclusion as ante 57 to 67] with feloniously assaulting the said J. S. on the king's highway, in the county of H. putting him in fear, and feloniously taking from his person a certain mail called the Chester mail in which letters were then sent and conveyed by the post from the General Post Office, containing several letters, packets, bags, and mails of letters, contrary to the statute.

For publishing a note stolen out of the mail. [Commencement and conclusion as ante 57 to 67] on suspicion of being an accessory after the fact, that is to say, by publishing in the county of Middlesex, a ten pound bank note, which had been previously stolen out of one of his majesty's mails near East Grinstead in the county of Sussex, against the peace, &c.

FALSE TOKENS AND PRETENCES.

For getting into possession [* 101] [Commencement and conclusion as ante 57 to 67.] on suspicion* of falsely and deceitfully obtaining and getting into

(p) See 52 Geo. III. c. 63. s. 1.

his hands and possession a pair of silver shoe buckles, the property of the said C. D. by colour and means of a false privy token, against the statute, &c. and against the peace, &c.

Another for procuring goods under false pretences under 33 Hen. 8. c. 1.

[*Commencement and conclusion as ante 57 to 67*] that for on the — day of — he the said E. F. did by a false privy token, (or “counterfeit letter”) that is to say, by, &c. [here particularize the offence] falsely and deceitfully obtain and get into his hands and possession [here mention the things] from G. H. of — contrary to the statute in that case made, &c.

Another for procuring goods under false pretences under 33 Hen. 8. c. 1.

[*Commencement and conclusion as ante 57 to 67*] for that he the said C. D. being a person duly bound as an apprentice to the said A. B. for the full term of 7 years, did enlist as a soldier in his majesty’s land service, and did state to the justice of peace, before whom he was carried, that he was not an apprentice, whereby he is liable to be indicted and punished for obtaining money under false pretences under the provisions of the statute in that case made and provided.

Against an apprentice for obtaining money under false pretences, by enlisting, on 30 Geo. 2. c. 24. (g)

[*Commencement and conclusion as ante 57 to 67*] with unlawfully, knowingly, and designedly, by false pretences, obtaining of and from the said C. D. one coat of the value of twenty shillings, of the goods and chattels of the said C. D. with intent to cheat and defraud him thereof, against the statute, &c.

Another for obtaining goods under false pretences on 30 Geo. 2. c. 24.

[*Commencement and conclusion as ante 57 to 67.*] for knowingly and designedly, by false pretences, obtaining from the said A. B. thirteen pairs of silk stockings of the value of ten pounds and upwards, with intent to cheat and defraud him of the same, against the statute, &c.

The like in another form.

[*Commencement and conclusion as ante 57 to 67.*] for that C. D. did on the — day of — knowingly, designedly, and under a certain false pretence, obtain from him the said A. B. at — in the county aforesaid, the sum of 20s. the proper monies of him the said A. B. with intent to cheat and defraud him thereof against the form of the statute in that case made and provided.

The like in another form.

[*Commencement and conclusion as ante 57 to 67*] for that after the twenty-ninth day of September, one thousand seven hundred and fifty seven, to wit, on, &c. now instant, at, &c. the said A. B. did unlawfully, knowingly, and designedly by false pretences obtain from one C. D. [here set out the goods] of the value of l. — of the monies, goods, wares, and merchandizes of the said C. D. with intent to cheat and defraud the said C. D. of the same, contrary to the statute, &c.

The like in another form.

[*Commencement* and conclusion as ante 57 to 67*] with knowingly, designedly, and unlawfully obtaining by false pretences from the said J. K. a certain instrument of music, called

For obtaining a harpsichord under [* 102]

false pretences, on 30 Geo. 3. c. 24 a harpsichord, of the value of 30*l.* the property of the said J. K. with an intent to cheat and defraud him of the same, contrary to the statute, &c.

FOR RECEIVING STOLEN GOODS.

For feloniously buying stolen goods joining the original offender (r) [Commencement and conclusion as ante 57 to 67] [*After stating the facts against principal, as the case may be, then*] and also for that the said C. D. hath feloniously bought and received the said silver spoons, knowing the same to have been feloniously stolen.

For feloniously receiving bank notes, taken out of a letter by a person employed in the post office under 42 Geo. 3. c. 81. (s) [Commencement and conclusion as ante 57 to 67] with feloniously and with a fraudulent intention, buying or receiving in the county of Middlesex, of A. B. a letter carrier employed in the business relating to the post office, a certain bank note of the value of 20*l.* which at the time of buying or receiving, he the said A. B. knew to have been contained in a certain letter which had been secreted or embezzled by the said A. B. as such letter carrier, contrary to the statute, &c.

Another slightly varying from the former. [Commencement and conclusion as ante 57 to 67] on suspicion of feloniously receiving with a fraudulent intention, certain promissory notes, for payment of money, of the Worcester Bank, well knowing the said promissory notes to have been contained in a certain letter sent by the post, and to have been stolen or unlawfully taken out of the said letter by some person employed in the post office, against the statute, &c.

For a misdemeanour in receiving goods, the principal felon not being convicted upon 29 Geo. 2. c. 30 s. 1. (s) [Commencement and conclusion as ante 57 to 67] on suspicion of feloniously receiving from E. F. in the parish of Saint Giles in the Fields, in the county of Middlesex, about 30 pounds weight of iron, of the value of 10*s.* the property of the said C. D. knowing the same to have been stolen, the principal felon not being convicted of the said felony.

For a misdemeanour in knowingly receiving stolen goods, the principal felon not having been convicted on 29 Geo. 2. c. 30. s. 1. [Commencement and conclusion as ante 57 to 67] for a misdemeanour, viz. receiving a watch, the property of the said C. D. and which was feloniously taken from him on the king's highway, the said A. B. knowing the same to have been stolen. The said C. D. cannot apprehend the principal felon to prosecute and convict him for the said felony.

For receiving stolen goods knowing them to be stolen on the highway, on 29 Geo. 2. c. 30. [Commencement and conclusion as ante 57 to 67] with feloniously receiving in the city of London, of and from some person unknown, knowing the same to have been stolen, a gold watch, the property of the said H. B. and feloniously taken from him by* a robbery on the highway, in the county of Middlesex, contrary to the statute.

[* 103]

(r) See notes under this head, 2 vol.

(s) See notes post 2 vol.
(t) See notes 2 vol.

[*Commencement and conclusion as ante 57 to 67*] for that the said A. B. on, &c. at, &c. of the goods and chattels of the said C. D. by a certain ill-disposed person (to me the said justice yet unknown) then lately before feloniously stolen of the same ill-disposed person, unlawfully and unjustly did buy and receive, the said A. B. well knowing the said goods and chattels to have been feloniously stolen, contrary to the statute in that case made and provided, and against the peace, &c.

Buying stolen goods where thief is not known.

[*Commencement and conclusion as ante 57 to 67*] with offering to pawn with the said L. M. a silver watch, and not giving a satisfactory account of the means by which she became possessed of the said watch, and the said L. M. therefore suspects that the said watch hath been stolen, or otherwise unlawfully obtained, and upon examination of the said J. K. before me, the said justice, there appears to be just cause to suspect the same is either stolen or illegally or clandestinely obtained, contrary to the statute, &c. And her safely keep in your said custody for the space of six days, for further examination, until, &c.

For offering to pawn a silver watch, and not giving a good account of it, on 30 Geo. II. c. 24 s. 7, & (u)

[*Commencement and conclusion as ante 57 to 67*] of unlawfully pawning a clock, the property of the said G. H. entrusted with him by the said G. H. to repair, he the said E. F. not being employed or authorized by the said G. H. the owner thereof, to pawn or dispose of the same, contrary to the statute. Whereby the said E. F. hath forfeited the sum of twenty shillings, prescribed by the said statute, which said sum of twenty shillings being demanded of him by me the said justice, he hath refused to pay.

For unlawfully pawning goods without the consent of the owner, 30 Geo. II. chap. 24. s. 3

[*Commencement and conclusion as ante 57 to 67*] for fraudulently, deceitfully, and unlawfully burning and destroying a promissory note for the payment of the sum of fourteen pounds, the same not being satisfied, with intent to cheat and defraud the said C. D. of the same, against the peace. &c.

For destroying a promissory note.

FOR FORGERY, &c.

[*Commencement and conclusion as ante 57 to 67*] on suspicion of having unlawfully, fraudulently, and deceitfully made and counterfeited a certain false, forged, and counterfeited order, purporting to be an order of admission for two to the pit of the Theatre Royal Covent Garden, this evening, and with having unlawfully, fraudulently, deceitfully, and knowingly uttered, offered, and tendered the same false, forged, and counterfeited order, as and for a good and true order and admission to the said theatre, with intent to injure and defraud the proprietors of the said theatre, against the peace, &c.

For forging and uttering an order of admission to the theatre. (w)

[* 104]

(u) See notes 2 vol.

vol. and 2 East, P. C. 852, 3

(w) See notes on this head, 2 859.

For forging a certificate to supply provisions of Spanish army under government employ, with intent to defraud the king. [Commencement and conclusion as ante 57 to 67] with unlawfully, fraudulently, and falsely making, forging, and counterfeiting, and knowingly uttering and publishing as true at the victualling office, in the parish of St. Mary le Strand, in the said county of Middlesex, a certain false, forged, and counterfeited certificate, purporting to be the certificate of the said C. M. as captain of his majesty's said ship R. authorizing the said A. B. as purser, to issue and supply from the said ship, divers large quantities of provisions to a detachment of the Spanish army, under the command of Don Epos Mina, with intent to defraud our said lord the king, against the peace, &c.

Commitment for forging dividend warrant of the bank of England, on 45 Geo. III. c. 88. s. 2. (x) [Commencement and conclusion as ante 57 to 67] on suspicion of feloniously forging and counterfeiting a certain dividend warrant, for payment of the sum of nine pounds nine shillings, and of feloniously disposing and putting away the said dividend warrant, (in London) well knowing the said dividend warrant to be forged and counterfeited, with intent to defraud the Governor and Company of the Bank of England, against the statute, &c.

For personating a seaman to receive his prize money. [Commencement and conclusion as ante 57 to 67] for feloniously and falsely assuming and personating the character and person of the brother of J. H. (late a seaman on board his majesty's ship Isis, but since dead) thereby administering to a will as the heir and representative of the said J. H. with intent to cheat and defraud the true and lawful heirs and representatives of the said J. H. of wages and prize money due to him for service as a seaman on board his majesty's ship the Isis.

For felony in forging bank notes, on 15 Geo. II c. 13 s. 11. 45 Geo. III. c. 88 s. 2. [Commencement and conclusion as ante 57 to 67] with having feloniously forged and counterfeited, at, &c. certain bank notes, purporting to be the bank notes of the Governor and Company of the Bank of England, with intent the said Governor and Company to defraud, against the peace, &c. and against the statute, &c.

For felony in uttering forged bank note, under 15 Geo. II. c. 13. s. 11 and 45 Geo. III c. 88. s. 2. [Commencement and conclusion as ante 57 to 67] with feloniously uttering, publishing, and putting away as true, a certain false, forged, and counterfeited bank note, purporting to be a note of the Governor and company of the Bank of England, for the payment of one pound, well knowing the same to be false, forged, and counterfeited, with intent to defraud the said governor and company, against the statute, &c.

For putting off forged bank notes, on 15 Geo. 2. c. 13. s. 11. and 45 Geo. 3 c. 88 s. 2. [* 105] [Commencement* and conclusion as ante 57 to 67] upon the oath of A. B. C. D. and others, with having feloniously disposed of, and put away, at Birmingham, in the county of Warwick, certain forged and counterfeited notes, purporting to be the notes of the Governor and Company of the Bank of England, knowing the same to be forged and counterfeited,

with intent to defraud the said governor and company, contrary to the statute, &c.

[*Commencement and conclusion as ante 57 to 67.*] For unlawfully causing and procuring to be engraved in and upon a plate of copper, in the city of London, a certain promissory note, purporting to be the promissory note of the governor and company of the bank of England, for the payment of ten pounds, containing the words, "Bank of England," and the words expressing the sum and amount of the said promissory note in white letters on a black ground; he the said John Graham not being an officer, workman, servant, or agent for the time being of the said governor and company, or authorized and appointed for that purpose and for the use of the said governor and company only, contrary to the statute, &c.

For causing a plate for notes purporting to be notes of the bank of England to be engraved, on 13 Geo. 3. c. 79. s. 1.

[*Commencement and conclusion as ante 57 to 67*] with unlawfully, knowingly, and wilfully uttering and publishing a certain promissory note, containing the word "Fifty," expressing the sum in the said note in white letters on a black ground, without being authorized or appointed for that purpose by the governor and company of the bank of England, against the statute, &c.

For publishing a note resembling one of the bank of England, containing white letters upon a black

ground, on 13 Geo. 3. c. 79. s. 1. (y)

[*Commencement and conclusion as ante 57 to 67*] with being guilty of felony, in the county of Warwick, to wit, having at Birmingham, in the said county of Warwick, by certain art, mystery, and contrivance, caused and procured the words "Bank of England" to appear visible in the substance of certain paper, he the said James Grove not then and there being an officer, workman, servant, or agent for the time being, of the governor and company of the bank of England, authorized and appointed for that purpose by the said governor and company, contrary to the statute, &c.

For causing the words Bank of England to appear visible on paper, on 13 Geo. 3. c. 79. s. 1.

[*Commencement and conclusion as ante 57 to 67*] With feloniously counterfeiting and altering a certain bank note of the governor and company of the bank of England, for the sum of fifty pounds, and also that he the said W. H. did offer, dispose of, and put away such counterfeit and altered note, knowing the same to be counterfeited and altered, with intent to defraud the said governor and company, contrary to the statute, &c.

For altering a bank note and uttering it when altered, on 15 Geo. 2. c. 13. s. 11.

[*Commencement and conclusion as ante 57 to 67.*] On suspicion of feloniously altering a bank note for the payment of two pounds, to make the same resemble a bank note for the* payment of ten pounds, and offering, disposing of, and putting away the said altered bank note, knowing the same to be altered, with intent to defraud the governor and company of the bank of England, against the statute, &c.

For felony in altering a bank note, on 45 Geo. 3. c. 3.

[*106]

(y) See general note on Forgery 2 vol.

For a single felony in having a forged bank note in possession, on 41 Geo. 3. c. 38.

[Commencement and conclusion as ante 57 to 67] with feloniously, knowingly, and willingly, having in his custody and possession, without lawful excuse, one forged and counterfeited note, purporting to be a note of the governor and company of the bank of England, for the payment of one pound, well knowing the same to be forged and counterfeited, against the statute, &c.

For a single felony in having forged bank notes in possession, on 41 Geo. 3. c. 39. s. 5.

[Commencement and conclusion as ante 57 to 67] with feloniously, knowingly, and willingly, without lawful cause, having in his custody and possession, certain forged and counterfeited bank notes, purporting to be notes of the governor and company of the bank of England, to wit, five notes for the payment of one pound each, and one note for the payment of two pounds, against the statute, &c.

Misdemeanour in having blank forged notes in custody with intent to utter them.

[Commencement and conclusion as ante 57 to 67] with a certain misdemeanour, that is to say, for that he the said B. C. N. on, &c. instant, at, &c. in the said county, unlawfully and wickedly did cause and procure a certain plate to be engraved, to wit, two plates purporting to be plates for Reading bank notes for ten pounds and five pounds, and also then and there unlawfully and wickedly did cause and procure divers, to wit, 750 impressions to be printed and taken from the said plates, the said impressions purporting to be blanks for Reading bank notes for ten pounds and five pounds, and also did then and there cause and procure the said blanks to be stamped with the stamp directed by law to be stamped on such notes; and the said plates and also the said impressions did then and there unlawfully and wickedly obtain and have in his custody and possession, with intent and in order feloniously and falsely to make, forge, and counterfeit certain promissory notes for payment of money, called Reading bank notes, and also feloniously to utter and publish the same as true, against the peace, &c.

For having forged stamps in possession, imitating those used by the goldsmiths' company, on 31 Geo. 32. 2. c.

[Commencement and conclusion as ante 57 to 67] for wilfully, knowingly, and feloniously being possessed, in the city of London, of two certain stamps, which have been forged and counterfeited, either before, on, or after the twenty-ninth day of December, 1773, in imitation of, and to resemble certain stamps used, and to be used, by the company, of Goldsmiths, in London, contrary to the statute, &c.

For felony in forging stamps on 52 Geo. 3. c. 143. (z)

[* 107]

[Commencement* and conclusion as ante 57 to 67] on suspicion of feloniously forging and counterfeiting, and causing and procuring to be forged and counterfeited a certain mark, stamp, and die, which, in pursuance of a certain act of parliament, had been provided and under the direction of the commissioners appointed to manage the duties on stamped vellum, parchment, and paper, for denoting a certain duty, under the care and management of the said commissioners, and for testifying the payment thereof, and feloniously utter-

ing and selling certain paper, having thereupon the impression of such forged and counterfeited mark, stamp, and die, well knowing the same to be forged and counterfeited, with intent to defraud his majesty, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] with unlaw- For having a
fully and knowingly having in his custody, in the county of plate in his
Surrey, after the tenth day of July, one thousand eight hun- custody.
dred and one, to wit, on, &c. last, a certain copper plate upon
which was engraved certain parts of a promissory note, pur-
porting to be the promissory note of the British Linen Com-
pany of Edinburgh, the said company being a banking com-
pany, without an authority in writing for that purpose from
the said company, or some person or persons duly authori-
zed to give such authority, contrary to the statute, &c.

[Commencement and conclusion as ante 57 to 67] feloniously forging and counterfeiting, and causing and procuring stamps on
to be forged and counterfeited the stamp and impression of paper under
a certain mark, stamp, and die upon paper allowed to be is- 23 Geo. 3. c.
sued and used under the authority of the statute, in that case 58. s. 11.
made and provided: and with uttering, vending, and selling
in the city of London, certain paper with such forged and
counterfeited stamp and impression thereupon, well knowing
such stamp and impression to be forged and counterfeited,
with intent thereby to defraud his majesty of certain duties
imposed by the said statute, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] with fe- For forging
loniously uttering, vending, and selling in the city of London stamp on the
certain paper cards with a forged, counterfeit stamp thereon, Ace of
purporting to be the stamp used to denote the duties payable Spades un-
to his majesty on such cards; they, the said I. M. and J. K. der 41 Geo.
well knowing the same to be forged and counterfeited. 3. c. 86. s.
16

[Commencement and conclusion as ante 57 to 67] with fe- For forging
loniously and falsely making, forging, and counterfeiting in stamps on
the city of London, divers marks, stamps, and impressions, seamen's
upon certain instruments* called seaman's powers of attorney, power of at-
resembling the mark, stamp, and impression made use of by torney on 9
the commissioners for managing his majesty's stamp duties Geo 3 c. 30.
for denoting the duty of six shillings having been paid on s. 6 (a)
each of the said powers of attorney, with intent to defraud [* 108]
his majesty of the duties thereon against the statue, &c.

[Commencement and conclusion as ante 57 to 67] upon a
violent suspicion of feloniously counterfeiting upon a pair of On a violent
shoe buckels, a mark, stamp, and impression in imitation of suspicion of
and to resemble the mark, stamp, and impression of the lion counterfeit-
used by the company of Goldsmiths, London, to mark and ing the
stamp wrought plate of silver, contrary to the statute, &c. stamp on
gold or sil-
ver on 31
Geo. II. c.
32. s. 15.

(a) From 2 Leach, 663.

For selling cards with a forged stamp knowing it to be a forgery on 29 Geo. III c. 56. s. 13.

[Commencement and conclusion as ante 57 to 67] with feloniously uttering, vending, and selling in the said county, certain paper cards with a forged and countefeited stamp thereon, purporting to be the stamp used to denote the duties payable to his majesty on such cards, he the said R. H. well knowing the same to be forged and counterfeited, and also with uttering vending and selling in the said county, certain cards with a forged and counterfeit stamp upon the label and wrapper, inclosing such cards purporting to be the stamp, used to denote the duties payable to his majesty on such cards, well knowing the same to be forged and counterfeited, contrary to the statute, &c.

For a misdemeanour in producing a forged discharge to defraud the commissioners of Chelsea hospital at common law

[Commencement and conclusion as ante 57 to 67] with being guilty of a misdemeanour, that is to say, by publishing to the commissioners of Chelsea hospital, on the first day of this instant November, a false and counterfeit discharge as and for himself from the eleventh regiment of foot for the purpose of obtaining an annual pension to himself thereby, against the peace, &c.

For personating bail, on 21 Jac I. c. 6. s. 26.

[Commencement and conclusion as ante 57 to 67] on suspicion of feloniously acknowledging bail in the name of another person, to wit, in the name of the said A. B. the said A. B. not being privy or consenting thereto in his majesty's court of King's Bench at Westminster, in a certain action then depending in the said court, wherein G. K. was plaintiff, and a person called L. M. was defendant, against the statute, &c.

For forging a seaman's will, under 31 Geo. II. c. 10. s. 24.

[Commencement and conclusion as ante 57 to 67] on suspicion of falsely making, forging, and counterfeiting, and uttering and publishing the same to be a true will, purporting to be the last will and testament of A. B. late a seaman on board the ship Rodney, in the service of the honourable the East India company, with intent to defraud T. N. contrary to the statute, &c.

For forging a will, on 2 Geo. II. c. 25. [* 109]

[Commencement and conclusion as ante 57 to 67] with feloniously* and falsely making, forging, and counterfeiting and publishing as true, knowing it to be forged, a certain will purporting to be the last will and testament of A. B. deceased, with intent to defraud the said C. D. contrary to the statute, &c.

For forging seaman's certificate, on 45 Geo. III. c. 72. s. 121.

[Commencement and conclusion as ante 57 to 67] on suspicion of feloniously forging and counterfeiting a certain certificate purporting to be a certificate of the service of him the said T. G. on board his majesty's ship Cornwallis, and of his discharge therefrom, and also on suspicion of feloniously and knowingly uttering and publishing as true the said false, forged, and counterfeited certificate in order to receive certain prize money supposed to be due to the said T. G. he having actually served on board the said ship, with intent to defraud the commissioners and governors of the royal hospital for seamen at Greenwich, in the county of Kent, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] on suspicion of feloniously uttering and publishing as true, at Greenwich, in the county of Kent, a certain false, forged, and counterfeited order for payment of prize money supposed to be due to H. T. for his service done on board a certain ship of his majesty, well knowing the same order to be forged and counterfeited, with intent to defraud the commissioners and governors of the royal hospital for seamen at Greenwich, in the county of Kent, against the statute, &c.

For forging
seamen's
certificates,
Greenwich.

[Commencement and conclusion as ante 57 to 67] for feloniously uttering and publishing as true, in the county of Middlesex, two certain false, forged, and counterfeit certificates, purporting to be the certificates of P. A. esquire, captain of his majesty's ship the Triumph, in order to receive certain prize money due to I. R. and T. M. two seamen who have really served on board the said ship, well knowing the said certificates to be false, forged, and counterfeited, with intent to defraud the said A. U. contrary to the statute, &c.

For uttering
a forged sea-
man's certifi-
cate, 11 45
Geo III. c.
72. s. 12L

[Commencement and conclusion as ante 57 to 67] for that he the said C. D. on, &c. did falsely make, forge, and counterfeit, and procure to be falsely made, forged, and counterfeited, and willingly act and assist in the false making, forging, and counterfeiting a certain paper writing, partly written, and partly printed, purporting to be a bond, and to be signed by A. B. with the name of A. B. and to be sealed and delivered by the said A. B. against the statute, &c.

For forging
a bond, on 2
Geo. II c.
25.

[Commencement and conclusion as ante 57 to 67] with feloniously disposing of, and putting away fifteen false, forged, and counterfeited,* promissory notes for the payment of money, purporting to be Colchester bank notes, for the payment of one pound each, well knowing the said promissory notes to be false, forged, and counterfeited, with intent to defraud S. C. against the statute, &c.

For putting
away forged
country bank
notes, on
statute.
[* 110]

[Commencement and conclusion as ante 57 to 67] with feloniously and falsely making, forging, and counterfeiting, and publishing as true, in the said county, knowing it to be falsely made, forged, and counterfeited, a certain promissory note, purporting to be the promissory note of C. D. for the governor and company of the bank of England to E. F. or bearer, on demand, for the payment of the sum of five pounds, and dated the — day of —, with intent to defraud G. H. against the statute, &c.

Counterfeit-
ing and ut-
tering a false
promissory
note, on 2
Geo. II c.
25.

[Commencement and conclusion as ante 57 to 67] with feloniously uttering and publishing as true, a certain false, forged, and counterfeit bill of exchange of E. F. at Colchester, for the sum of eighteen pounds and ten shillings, knowing the same to be false, forged, and counterfeit, with an intent to cheat and defraud the said E. F. of the same, contrary to the statute, &c. and him safely keep, &c.

For uttering
a forged bill
of exchange
on 30 Geo.
II c. 24. s. 1,
2.

[Commencement and conclusion as ante, 57 to 67] with feloniously forging and counterfeiting a certain indorsement

For forging
an indorse-

ment on a promissory note, on 2 Geo II c. 25. s. 1.

upon a certain promissory note for the payment of the sum of 40*l.* purporting to be the mark and indorsement of the said N. O. and uttering the said note, so indorsed, as and for the true mark and indorsement of the said N. O. he the said L. M. knowing the same to be false, forged, and counterfeit, with an intent to cheat and defraud the said N. O. of the said sum of forty pounds, contrary to the statute, &c.

For uttering a bill with a forged acceptance.

[Commencement and conclusion as ante 57 to 67.] With feloniously and falsely making, forging, and counterfeiting, and uttering and publishing as true, a certain false, forged and counterfeited acceptance of a bill of exchange, bearing date the 7th instant, and purporting to be drawn by F. N. S. on Messrs. R. and O. for the sum of eleven pounds, four shillings, at thirty-one days after date, he the said G. S. well knowing the said acceptance to be false, forged and counterfeited, with intent to defraud the said J. H. against the statute, &c.

For forging a receipt, on 2 Geo. 2. c. 25.

[Commencement and conclusion as ante 57 to 67.] With falsely and feloniously making, forging and counterfeiting an acquittance or receipt for money, signed W. W. dated the 9th January, 1805, with intent to defraud one W. W. and also with intent to defraud one J. L.

For forging a receipt for provisions, for the use of his majesty's garrison at Goree, on 2 Geo. 2 c. 25.

[Commencement and conclusion as ante 57 to 67.] For feloniously and falsely making, forging, and counterfeiting, and feloniously publishing* as true, knowing it to be falsely made, forged and counterfeited, a certain acquittance or receipt for goods, purporting to be the acquittance or receipt of I. R. lieutenant-colonel of Mr. G. purser of his majesty's ship *Superb*, for the delivery of certain provisions, goods, &c. for the use of the garrison at Goree, on the coast of Africa, and dated the 10th May, 1779, with intent to defraud his majesty, contrary to the statute, &c.

[* 111]

For forging a pensioner's receipt of Chelsea Hospital, on 2 Geo. 2 c. 25.

[Commencement and conclusion as ante 57 to 67.] With feloniously and falsely making, forging, counterfeiting and publishing as true, at the Royal Hospital, at Chelsea, in the said county, knowing it to be forged and counterfeited, a certain receipt, purporting to be the receipt of T. H. an out-pensioner to Chelsea Hospital, for the payment of three pounds, twelve shillings and five pence farthing, with intent to defraud J. S. agent to the said Hospital.

For forging and uttering an accountable receipt, on 2 Geo 2. c. 25.

[Commencement and conclusion as ante 57 to 67.] For feloniously and falsely uttering, forging, and counterfeiting and publishing as true, knowing it to have been so uttered, forged and counterfeited, the principal sum of a certain accountable receipt for payment of money, purporting to be the accountable receipt of J. A. to the said A. B. for payment of 50*l.* on account, bearing date March 22d, 1784, with intent to defraud the said A. B. of 45*l.*

[Commencement and conclusion as ante 57 to 67.] With ^{Forging re-} feloniously and falsely making, forging and counterfeiting ^{ceipts.} certain receipts for money, that is to say, one receipt for the sum of seventy-five pounds, sixteen shillings, one other receipt for the sum of thirty-five pounds, and one other receipt for the sum of thirty pounds, eight shillings, and with uttering and publishing the same receipts as true, well knowing them to be false, forged and counterfeited, with intent to defraud his majesty, against the peace, and also against the statute, &c.

[Commencement and conclusion as ante 57 to 67.] On sus- ^{For publish-} picion of having feloniously published as true, knowing it to ^{ing a forged} be falsely forged and counterfeited, a certain receipt of ^{receipt, on 2} money, purporting to be the receipt of the said A. B. for ^{Geo. 2. c. 25.} fifteen shillings, and four pence, from G. H. dated December 16th, 1788, with intention to defraud the said A. B. against the statute, &c.

[Commencement and conclusion as ante 57 to 67.] With ^{Commitment} feloniously and falsely making, forging, counterfeiting, and ^{for uttering} altering a certain receipt for money, purporting to be the re- ^{a forged re-} ceipt of the said M. B. for the sum of one pound, twelve ^{ceipt under} shillings and six pence, and offering, disposing of, and put- ^{45 Geo. 3. c.} ting away the same, in the said county, knowing it to be ^{89.} falsely forged, counterfeited and altered, with intention to defraud his majesty.

OFFENCES* TO REALTY.

[Commencement and conclusion as ante 57 to 67.] On sus- ^[* 112] picion of feloniously, voluntarily and maliciously, on the ——— ^{For feloni-} day of ——— instant, setting fire to the house of J. J. in the ^{ously setting} parish of St. Ann, Westminster, and part of the said house, ^{fire to a} by such firing as aforesaid, was then and there feloniously ^{house, on 9} and maliciously burnt and consumed, contrary to the statute. ^{Geo. 1. c. 22.}

[Commencement and conclusion as ante 57 to 67.] with ^{The like in} feloniously, wilfully and maliciously setting fire to the dwel- ^{another} ling-house of A. B. in the parish of St. Martin in the Fields, ^{form.} in the county of Middlesex.

[Commencement and conclusion as ante 57 to 67.] To ^{For feloni-} answer all such matters and things as on his majesty's behalf ^{ously setting} are on oath objected against him by ———, on suspicion of ^{fire to his} having wilfully, maliciously, and feloniously, set fire to the ^{own house,} house he rented in Fort-Street, Spital Fields, and thereby ^{whereby} occasioned the burning of the house adjoining, contrary to ^{others were} the statute, &c. ^{burned, on 9} ^{Geo 1. c. 22.} ^(b)

[Commencement and conclusion as ante 57 to 67.] For ^{Against a} that he the said B. C. on the 14th day of August, 1774, being ^{servant for} a servant to H. I. esquire, at Botteys, in the county of Surrey, ^{carelessly} setting fire

(b) See notes 2 vol. and 2 East, P. C. 1031.

to his mas-
ter's house,
on 6 Ann, c.
8. (c)

For burglary
(d)

On suspicion
of burglary.
(e)

[* 113]

Against an
accessary to
a burglary.
(f)

For burglary
in an other
form.

For burglary
in an other
form.

did by negligence and carelessness, fire certain out-houses, belonging to the said H. I. at Botteys aforesaid, in the said county, contrary to the statute, &c.

[Commencement and conclusion as ante 57 to 67.] With having feloniously and burglariously in the night of the 31st day of December now last past, the dwelling-house of him the said A. B. at —, &c. aforesaid, broken open, and one silver tankard, of the value of twenty pounds, of the goods and chattels of him the said A. B. feloniously and burglariously stolen, taken, and carried away from thence.

[Commencement and conclusion as ante 57 to 67.] That on the night of Tuesday the 31st day of December now last past, that is to say, between the hour of eight of the clock of that evening, and six of the clock of the next morning, the dwelling-house of him the said A. B. was feloniously and burglariously broken open, and one silver tankard, of the value of five pounds, of the goods and chattels of him the said A. B. feloniously and burglariously was stolen, taken, and carried away from thence; and that he hath just cause to suspect and doth suspect that C. D. late of Isleworth, in the county aforesaid, labourer; and G. H. late of Isleworth aforesaid, in the county aforesaid, labourer, the said felony and burglary did commit.

[Commencement and conclusion as ante 57 to 67.] For that C. D. of —, stands charged, &c. (as in warrant, &c. against principal,) that I. K. of Isleworth, aforesaid, yeoman, since the said felony and burglary were committed, hath received, harboured, and maintained the said C. D. in the dwelling-house of him the said I. K. at Isleworth, aforesaid; he the said I. K. well knowing the said C. D. to have committed the said felony and burglary.

[Commencement and conclusion as ante 57 to 67.] Charged before me the said justice, upon the oaths of W. J. and others, with feloniously and burglariously breaking and entering the dwelling-house of the said W. J. situate at Vauxhall, in the county of Surrey, on the night of the 2d instant, and feloniously and burglariously stealing therein, eight brass candlesticks, four copper saucepans, a jack chain, a steel yard, and various other articles, the property of the said W. J. against the peace, &c. and against the form, &c.

[Commencement and conclusion as ante 57 to 67] for feloniously breaking and entering the dwelling-house of the said A. B. in the night time, and feloniously taking and carrying away a silver teakettle, the property of the said A. B. against the statute, &c.

(c) See notes under this head,
2 vol.

(d) See notes 2 vol.

(e) Burn, J. Burglary. Dick,
J. Burglary. Toone, 75.

(f) Toone, 3.

[Commencement and conclusion as ante 57 to 67] for being guilty of misdemeanour in attempting feloniously to break and enter the dwelling-house of Mrs. A. W. in the night time, with intent to commit felony therein, by lifting up the parlour window of the said house, against the peace. Misdemeanour in attempting burglary.

[Commencement and conclusion as ante 57 to 67] for unlawfully attempting feloniously and burglariously to break and enter the dwelling-house of E. F. with intent feloniously to steal, take, and carry away the goods therein being, by endeavouring to open the door of the said house with a pick-lock key in the night of the 11th day of May instant, at the parish of St. Ann, within the liberty of Westminster, against the peace, &c. Misdemeanour in attempting to break open a house.

[Commencement and conclusion as ante 57 to 67] with unlawfully, wilfully, and injuriously breaking the dwelling-house of the said ——— with intent to enter the same, and the goods and chattels therein being, feloniously to steal, take and carrying away, against the peace, &c. Misdemeanour in breaking and entering house with intent to steal.

[Commencement and conclusion as ante 57 to 67] for unlawfully, wilfully, and injuriously breaking the dwelling-house of J. A. with intent to enter the same, and the goods and chattels therein being,* feloniously to steal, take, and carry away, against the peace, &c. For breaking a house with intent to steal. [* 114]

[Commencement and conclusion as ante 57 to 67] with feloniously and burglariously breaking and entering the dwelling-house of the said P. Q. in the parish of St Mary-le-bone, in the county of Middlesex, in the night of the 27th of August last, and feloniously taking and carrying away in the said dwelling-house, twelve silver table spoons and other things, of the value of fifty pounds, the goods and property of the said P. Q. against the peace, &c. For breaking and entering a dwelling-house, and stealing, on 12 Ann, s. 1. c. 7. s. 3. (f)

[Commencement and conclusion as ante 57 to 67] on suspicion of felony, in entering the dwelling house of the said J. A. in the parish of St. Mary-le-bone, in the county of Middlesex, on the night of the 15th February instant, and on the same night feloniously, and burglariously breaking out of the same, and stealing, taking, and carrying away therein a silver tankard, a pepper box, and a silver table spoon of the value of 50s. the goods and property of the said J. A. contrary to the statute, &c. For a burglary in breaking out of a dwelling house. (g)

[Commencement and conclusion as ante 57 to 67.] For feloniously cutting, ripping, and breaking a quantity of lead, the property of J. M. the same being affixed to a certain warehouse adjoining the dwelling house of the said J. M. situate in the parish of, &c. in the said county, with intent the said lead feloniously to steal, take, and carry away, contrary to the statute, &c. and against the peace, &c. For felony in cutting, ripping, &c. lead from a warehouse with intent to steal the same, on 4 Geo. II. c. 32. (h)

(f) See notes 2 vol.

(g) 12 Ann, st. 1. c. 7. s. 3.

(h) See notes 2 vol. 2 East, P. C. 593.

For felony in stealing lead affixed to buildings, on 4 Geo. II. c. 32.

For a misdemeanour in entering a workshop with intent to commit felony.

[Commencement and conclusion as ante 57 to 67] for feloniously ripping, cutting, breaking, and stealing a quantity of lead, the same being affixed to a certain dwelling house belonging to lady Diana Beauclerk, situate at Muswell Hill, in the parish of Hornsey, in the county of Middlesex, the property of the said lady Diana Beauclerk, contrary to the statute, &c.

[Commencement and conclusion as ante 57 to 67] for a misdemeanour, viz. forcing a padlock from off the door of a certain workshop, belonging to one T. S. in the parish of St. Mary-le-bone, in the county of Middlesex, and entering the said workshop with an intent, as he verily believes, to commit felony in the same, against the peace, &c.

COMMITMENTS, OFFENCES RELATIVE TO SHIPS.

For a piracy under st. 18 Geo. II. c. 30.

[* 115]

Id. with intent to defraud the insurers of the cargo.

On 11 & 12 W. III. c. 7.

For casting away a ship with intent to defraud underwriters

The same against the owner.

For a misdemeanour on the high seas, under 32 Geo. II. c. 25. s. 2. and see 39 Geo. III. c. 37.

[Commencement and conclusion as ante 57 to 67] for feloniously, and piratically adhering to the king's enemies, by cruizing in an hostile manner on the high seas in a certain armed vessel, with intent to seize, and take the ships and goods of his majesty and* his subjects, the said Curiot, alias Smith, being a natural born subject of his majesty, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] for wilfully, and feloniously casting away the said ship or vessel, with intent to prejudice divers merchants who had underwrote several policies of insurance on the cargo thereof, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] for feloniously, and wilfully directing and procuring the ship or vessel, called the Nancy, Captain Samuel Stiff, commander, to be cast away, with intent and design to prejudice the underwriters of the said ship or vessel, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] for feloniously and wilfully casting away the ship or vessel of which he was owner, and to which he belonged, called the Nancy, with intent and design to prejudice the underwriters of the said ship or vessel, against the statute, &c.

[Commencement and conclusion as ante 57 to 67] with a certain misdemeanour, in unlawfully and forcibly boarding, seizing, taking, and detaining upon the high seas, within the jurisdiction of the admiralty of England, three ships, the property of certain subjects of his most catholic majesty, his said catholic majesty being in amity with this realm: and unlawfully assaulting and imprisoning divers subjects of his said catholic majesty's, being in and on board the said ships, against the statute, &c.

COMMITMENTS FOR CONSPIRACIES.

[*Commencement and conclusion as ante 57 to 67*] for unlaw-
fully combining, conspiring, and agreeing together, in wilful-
ly and maliciously charging the said I. L. of having been
guilty of sodomitical practices, and thereby unlawfully ex-
torting and receiving from him the said I. L. in the parish
of St. Mary-le-bone, in the county of Middlesex, the sum of
one pound six shillings, the property of the said I. L.

For a conspi-
racy to
charge a
person with
sodomy, and
thereby ex-
torting mo-
ney from
him. (k)

[*Commencement and conclusion as ante 57 to 67.*] Receive,
&c. A. B. upon the oath of G. H. with a conspiracy, viz.
knowingly, designedly, and unlawfully combining, confede-
rating, and conspiring together, with J. K. an insolvent
debtor by an act of the 12 Geo. III. in cheating and defraud-
ing the lawful creditors of the said J. K. under colour and
pretence of a bill of sale, which said bill of sale is by J. B.
declared to be a fraudulent bill of sale, contrary to the statute,
&c.

For a conspi-
racy to de-
fraud credi-
tors, on 4
Edw. III. c.
11. s. 1.

Police Office,* Union Hall, Southwark.

[*King's Arms.*]

Surrey, (to wit.) To G. H. a constable: and to the keeper
of his majesty's gaol at Newington, or his deputy.

Another
form of com-
mitment for
re-examina-
tion, stating
the offence.

Whereas C. D. of, &c. labourer, is now brought before me
E. F. esquire, one of his majesty's justices of the peace in
and for the said county, and charged on the oath of A. B. on
suspicion of having, on the — day of — now instant, at
the parish of —, in the said county, feloniously stolen, taken,
and carried away [*describe the property according to the facts,
as ante 95*] of the goods and chattels of the said A. B. against
the peace, &c. These are, therefore, in his majesty's name,
to command you, the said constable, to convey the said C. D.
to the said keeper; and you the said keeper are hereby re-
quired to receive and safely keep him the said C. D. in your
said gaol until Monday the — day of — next, when you
are hereby required to bring him the said C. D. again before
me, to be re-examined and further dealt with according to
law. And for so doing this shall be your sufficient warrant.

(l)
[* 116]

Given under my hand and seal this — day of — one
thousand eight hundred and sixteen. E. F. (L. S.)

To the Treasurer of the county of Essex or his deputy.
Middlesex and Essex, (to wit.) Whereas by my warrant
of commitment dated this day, I have committed one George
Stayner for felony and horse stealing at Nasing, in the said
county, to be prosecuted at the ensuing assizes at Chelmsford,
and have duly bound over the prosecutor and witness for

Order of jus-
tice of peace
to treasurer
of county to
pay expenses
of carrying
party com-
mitted to

(k) As to conspiracy in gene- this form should have been in-
ral, see notes 2 vol. serted. This form seems pre-

(l) See forms ante 33, where ferable to the others.

common
gaol, on 27
Geo. II. c. 3.
s. 1. (m)

[* 117]

The like in
another form

that purpose, and the said George Stayner not having sufficient goods or money to defray the charges of himself or the officer who is appointed to convey him to Chelmsford aforesaid, from the public office, Bow-street; and I having examined into and ascertained the necessary and reasonable charges and expences to be allowed on such occasions, and appointed and fixed the sum at the sum of three pounds, eighteen shillings and sixpence, do hereby in pursuance of the act of Parliament in such case made and provided, order and require you the said treasurer of the county of Essex, to pay to Stephen Lavender, the officer appointed to convey the said prisoner as aforesaid, the said sum of three pounds eighteen shillings* and six pence, and for so doing this shall be your sufficient warrant. Given under my hand and seal at the public office Bow-street, the 9th day of March, in the year of our Lord 1809. J. Read. (L. S.)

To the treasurer of the county of —, and to the chief constable of the — hundred of — in the said county.

Essex, (to wit.) Whereas application has been this day made to me, one of his majesty's justices of the peace in and for the said county, by A. B. of —, one of the constables of the parish of —, in the said county, to allow of the reasonable expences of his conveying C. D. to — at —, in the county aforesaid, who was by me committed to the said gaol, for, &c. [*describe offence as in commitment.*] And it having been duly made appear to me, the said justice, that the said C. D. hath not money nor goods within the said county, sufficient to bear the charges of himself and those who conveyed him to the said gaol, and I having upon oath examined into the expences thereof, and made due enquiry into the premises, do hereby ascertain and allow the reasonable expences thereof, at the sum of —/ which I hereby order and require you, the treasurer of the said county, forthwith to pay to the said A. B. Given under my hand and seal this — day of —, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

Justice's order, under 18 Geo III c. 19. s. 1, for costs on a complaint determined by him. (n)

Essex, (to wit.) I, one of his majesty's justices of the peace in and for the county aforesaid, in pursuance of an act made in the eighteenth year of his majesty king George the third, intituled, "An act for the payment of costs to parties, on complaints determined before justices of the peace out of sessions, for the payment of the charges of constables in certain cases, and for the more effectual payment of charges to witnesses and prosecutors of any larceny or other

(m) See ante 1 vol. 116.

(n) This form is prescribed by the statute. This and the three next forms are more immediately

applicable to summary proceedings in case of convictions, &c. but may be applied to other cases, and are therefore here given.

felony ;” on the complaint of A. B. of, &c. against C. D. of, &c. for [*state subject matter of complaint, &c.*] which said complaint was heard and determined by me, on the — day of —, do award the following costs to be paid by the said C. D. to —, that is to say, —*l.* for, &c. Given under my hand and seal, the — day of —, one thousand eight hundred and sixteen.

To the constable of —, and to all other his majesty’s constables in and for the said county.

Essex,* (to wit.) Whereas I, E. F. one of his majesty’s justices of the peace in and for the county aforesaid, in pursuance of an act made in the eighteenth year of his majesty king George the third, intituled “An act for the payment of costs to parties, on complaints determined before justices of the peace out of sessions, for the payment of the charges of constables in certain cases, and for the more effectual payment of charges to witnesses and prosecutors of any larceny or other felony ; have awarded, on the — day of — on the complaint of A. B. against C. D. for, &c. [*state complaint*] the following costs to be paid by C. D. And whereas the said C. D. being ordered by me the said justice to pay such sum as aforesaid, hath not paid down or given security for the same, to the satisfaction of me the said justice. These are, therefore, to command you, and each and every of you, to levy the said sum of —*l.* by distress and sale of the goods and chattels of the said C. D. And I do hereby order and direct the goods and chattels so to be distrained, to be sold and disposed of within — days, unless the said sum of —*l.* for which such distress shall be made, together with the reasonable charges of taking and keeping such distress, shall be sooner paid, and you are hereby also commanded to certify unto me what you shall have done by virtue of this my warrant. Given under my hand and seal, at —, the — day of —, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

Essex, (to wit.) I, G. H. constable of the parish of —, do hereby certify to E. F. esquire, justice of the peace in and for the said county, that I have made diligent search for, but do not know of, nor can find any goods or chattels of C. D. by distress and sale whereof I may levy the sum of —*l.* pursuant to his warrant for that purpose dated the — day of — A. D. one thousand eight hundred and sixteen. Given under my hand, this — day of —, in the year of our Lord one thousand eight hundred and sixteen.

G. H.

To the constable of —, and also to the keeper of the house of correction, at —, in the said county.

Essex, (to wit.) Whereas in pursuance of an act made

Justice’s distress warrant to levy said costs on 18 Geo III c 19. s 1. (o) [* 118]

Return thereto. (p)

Justice’s warrant to apprehend

(o) This form is prescribed by the statute.

(p) This form is prescribed by the statute.

for such costs in the eighteenth year of his majesty king George the third, in default of intitled "An act for the payment of costs to parties, on distress, under 18 Geo complaints determined before justice of the peace out of sessions, for the payment of the charges of constables in certain cases, and for the more effectual payment of charges to witnesses and prosecutors of any larceny or other* felony;" (q)

[* 119]

I, E. F. esquire, one of his majesty's justices of the peace in and for the said county, did issue my warrant of distress, and sale, directed to the constable of the said parish of —, ordering the said constable to levy the sum of —/ by distress and sale of the goods and chattels of C. D. in manner and form as therein is mentioned. And whereas it appears to me, by the return of the said constable, that he hath made diligent search, but doth not know of nor can find any goods and chattels of the said C. D. by distress and sale whereof the sum of —/ may be levied, pursuant to the said warrant. These are, therefore, to command you, the said constable of —, to apprehend the said C. D. and convey him to the said house of correction, and to deliver him there to the said keeper of the said house of correction: and these are also to command you the said keeper of the said house of correction, to receive the said C. D. into the said house of correction, and there to keep him to hard labour for the space of —, from the date hereof, or until such sum together with the expences attending his commitment to the house of correction be first paid, or until he be discharged by due course of law. Given under my hand and seal, at —, the — day of —, in the year of our Lord one thousand eight hundred and sixteen. E. F. (L. S.)

Liberate or warrant to discharge prisoner after commitment, he having found bail to appear to indictment. (r)

Monmouthshire, (to wit.) E. F. and L. M. esquires, two of the justices of our sovereign lord the king, assigned to keep the peace in and for the said county of Monmouth, (one of us being of the quorum) to the keeper of his majesty's gaol of —, at —, in the said county, greeting.

Whereas C. D. of —, labourer, hath before us found sufficient bail to appear before the justices of gaol delivery, at the next general gaol delivery to be holden in the said county, there to answer to such things as shall be then, on the behalf of our said sovereign lord, objected against him, and namely, to the felonious taking away two sheep, (for the suspicion whereof he was taken and committed to your gaol) we command you, on the behalf of our said sovereign lord, that if the said C. D. do remain in your said gaol for the

(q) This form is prescribed by the statute. 2. Burn, J. Bail. X. Williams, J. Bail, X. Dick, J. Bail, VI. 2

(r) As to this discharge after commitment, see ante 1 vol. 101, Hale, 125.. Dalt. J. c. 176. p. 478, post.

said cause, and for none other, then you forbear to detain him any longer, but that you deliver him thence, and suffer him to go at large; and that upon the pain that will thereon ensue. Given under our hands and seals at —, in the said county, the — day of —, in the — year of the reign of his present majesty, George the third.

E. F. (L. S.)

L. M. (L. S.)

Middlesex,* (to wit.) E. F. esquire, one of his majesty's justices of the peace in the county aforesaid. To the keeper of his majesty's —, in the said county, greeting.

Forasmuch as C. D. in the prison of —, of our said lord the king in your custody, now being at the suit of our said lord the king on the prosecution of A. B. for the want of his, the said C. D.'s finding sufficient sureties for his personal appearance at the next general quarter sessions of the peace for the said county, then and there to do and receive what shall be enjoined him, and for his keeping the peace, (or being of the good behaviour,) in the mean time, as well towards his said majesty as towards his liege people, and especially towards him the said A. B. hath found before me the said justice sufficient sureties, that is to say, G. H. of —, in the said county, yeoman, and I. K. of —, in the said county, yeoman, either of which hath undertaken for the said C. D. under the pain of forty pounds, and he the said A. B. hath undertaken for himself, under the pain of eighty pounds, that he the said C. D. shall and will personally appear at the next general quarter sessions of the peace for the said county, then and there to do and receive what shall be enjoined him by the said court, and that he will well and truly keep the peace in the mean time, as well towards his said majesty as towards all his liege people, and especially towards him the said A. B. Therefore, on behalf of his said majesty, I do command you the said keeper of the said prison, that if the said C. D. do remain in the said prison for the said cause and for none other, that you forbear to detain him any longer, but that you deliver him thence and suffer him to go at large, as to the said cause. Given under my hand and seal the second day of January, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

E. F. esquire one of the justices, &c. to the constables of the city of B. and to the keeper of the gaol of our said lord the king, in the county aforesaid, greeting.

Whereas C. D. of —, labourer, hath come before me, and has found sufficient sureties for being before the justices of our said lord the king at the next general sessions of the

Discharge where defendant committed for want of sureties to keep the peace, &c. and afterwards finds bail. (s) [* 120]

The like to deliver a prisoner taken by warrant, he having found sureties. (t)

(s) See note to last precedent.

(t) See form Dalt. J. c. 176. p. 478.

peace to be held in the county aforesaid, to answer as well to our said lord the king as to A. B. of certain trespasses or contempts, &c. by him committed. Therefore, I command you and every of you, that you cause the said A. B. to be delivered from your custody, without delay, and in the mean time you supersede another writ of mine to you thereof directed; and this my writ shall be to you, and every* of you, a sufficient warrant. Dated at, &c. on, &c.

E. F. (L. S.)

[*King's Arms.*]

The like in
another
form. (u)

Middlesex, (to wit.) To the keeper of new prison at Clerkenwell, or his deputy.

Discharge out of your custody the body of C. D. if detained for no other cause than what is mentioned in the warrant of his commitment under my hand and seal, dated the — day of —, 1816. I having taken sureties for his personal appearance at the next general (or general quarter) session of the peace, to be holden for the said county, at the session-house, on Clerkenwell-green, in and for the said county; and for your so doing this shall be your sufficient warrant. Given under my hand and seal (being one of his majesty's justices of the peace in and for the said county,) this — day of —, in the year of our Lord one thousand eight hundred and sixteen.

E. F. (L. S.)

The like in
a more con-
cise form (w)

To the governor of Tothill Fields Bridewell, or his deputy.
City and Liberty of Westminster, in the county of Middlesex, (to wit.)

Discharge out of your custody the body of C. D. of, &c. if detained for no other cause than what is mentioned in his warrant of commitment. Dated the — day of —, 1816. And for your so doing this shall be your sufficient warrant. Given under my hand and seal this — day of —, one thousand eight hundred and sixteen.

E. F. (L. S.)

The like in
Middlesex.
(x)

To the governor of the house of correction, Cold Bath Fields, or his deputy.

Middlesex, (to wit.) Discharge out of your custody the body of C. D. of, &c. if detained for no other cause than what is mentioned in my warrant of his commitment, dated the — day of —, 1816. And for your so doing this shall be your sufficient warrant. Given under my hand and seal this — day of —, one thousand eight hundred and sixteen.

E. F. (L. S.)

PROCEEDINGS ON HABEAS CORPUS.

In the King's Bench. Middlesex.

The King against William Parsons and Thomas Hill.

Affidavit of the prisoners of felony.
and their so- Committed to the new prison at Clerkenwell, on suspicion

(u) See note to precedent ante 119.
119.

(x) See note to precedent

(w) See note to precedent ante ante 119.

William Parsons, of Tottenham, in the county of Middlesex, gardener; Thomas Hill, of the same place, gardener, and A. B. of, &c. solicitor, for the prisoners, severally, make oath and say; and first, this deponent, William Parsons, for himself saith, that [*here state the facts under which the supposed charge was made.*] And these deponents, severally, say, that their characters as well for honesty as industry are well known to a great many respectable gentlemen and persons at Tottenham, for whom they have worked as gardeners for many years, as well as many other respectable persons of character, and many of whom have voluntarily stood forward and offered to become bail for their appearance at the next session, to take their trial upon any indictment which may be preferred and found against them; and lastly, these deponents severally say, they have both wives and large families to maintain by their daily labour, and therefore most humbly pray your lordship to grant them his majesty's writ of habeas corpus to bring them before your lordship to be bailed accordingly, and that your lordship will be pleased to order that a writ of certiorari may be issued to the committing justice, to produce before your lordship the examinations and depositions taken before him, which grounded the commitment. And this deponent A. B. for himself saith, that he (this deponent) hath examined the annexed copy of commitment, with the original commitment, at the new prison, Clerkenwell, and that the same is a true copy.

licitor to
ground Ha-
beas Corpus
to admit the
prisoners to
bail. (y)
[* 122]

Sworn at the new prison, Clerkenwell, in the county of Middlesex, by the deponents, William Parsons and Thomas Hill, the sixteenth day of March, one thousand eight hundred and thirteen.

William Parsons, Before me, C. Platt, by Commission.
Thomas Hill.

Sworn by the deponent, A. B. at my house, in St. James's Square, the seventeenth day of March, one thousand eight hundred and thirteen.

Before me, Ellenborough.

A. B.

In the King's Bench.

B. F. of the town of C. in the county of C. printer, but now a prisoner in the gaol of Newgate, in the city of London, maketh oath and saith, that on Thursday, the second

Another
form of Affi-
davit of the
circumstan-

(y) As to the mode of proceeding for habeas corpus and certiorari, see ante 1 vol. 124 to 128. The application ought to be supported by the affidavit of third persons, as to facts, or at least as to character, Cald. 246. 1 Leach 255. ante 1 vol. 124, 5. See vide next precedent and Hand's Prac.

519. In the present case the application was refused because the Judge had no affidavits before him, but of the prisoners themselves as to the fact, and of the Attorney as to the copy of the commitment, and which the judge said were not sufficient to support the application.

ces to ground
application
for Habeas
Corpus. (z)
[* 123]

day of May last, this deponent was taken into custody at his residence, in the town of C. aforesaid, by Mr. Finch, the deputy serjeant at arms attending the house* of lords; and that the said deputy serjeant at arms showed this deponent a certain paper writing, by which it appeared that a certain paragraph inserted in a certain newspaper, intituled the Cambridge Intelligencer, Saturday, April 20th, 1799, and published by this deponent at C. aforesaid, had been resolved by the house of lords to be a gross and scandalous libel upon the right reverend Richard, lord bishop of Llandaff, a member of that house; and that thereupon the said house of lords had ordered the serjeant at arms forthwith to attach the body of this deponent, and to bring this deponent in safe custody to the bar of the said house on Friday then next to answer for such offence. And this deponent further saith, that on Friday, the third day of May last, he (this deponent) was brought to the bar of the house of lords, when the proceedings of that house, on Wednesday, the first day of May last, were read, whereby it appeared to this deponent that the information contained in the said paper, shewn to this deponent by the deputy serjeant at arms, was true. And this deponent further saith, that he was soon afterwards ordered to withdraw from the said bar, and was conveyed to Newgate, where, having demanded a copy of the warrant of commitment, this deponent received the paper writing hereunto annexed from E. K. clerk of the papers at the said gaol of Newgate. And this deponent further saith, that he is not conscious of having published any libel on the said bishop of Llandaff, or any other person whomsoever; nor has this deponent been put upon his defence, nor tried, nor convicted of publishing of any libel, or of any other offence or misdemeanour whatsoever: nor hath any judgment been passed upon this deponent in the hearing of this deponent; nor hath this deponent, to the best of his knowledge, been guilty of any contempt, or breach of the privileges of the house of lords; nor hath this deponent been in the said house of lords for upwards of fifteen years last past, before the said third day of March last. B. F.

Sworn in Newgate, the fifth day of June one thousand seven hundred and ninety-nine, before

T. Platt, by Commission.

Writ of Habeas Corpus thereon. (a)

George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the

(z) See form Hand's P. 519. 8 form of writ, to keeper of Newgate, to have prisoner before Chief Justice of King's Bench, and return thereto, Bro. Red. Term Rep. 314. and as to requisites of affidavit and course of proceeding, 1 vol. 124 to 129. (a) Hand's Prac. 521. See 385. Bro. Vad. 548. 2 Inst. 52.

PROCEEDINGS

faith, &c. To the keeper of our gaol of Newgate puty, greeting.

We command you, that you have before us at ster-hall, immediately after the receipt of this writ, the of B. F. being committed and detained in our prison under our custody (as is said) together* with the day and cause of the taking and detaining of the said B. F. by whatever name the said B. F. be called in the same, to undergo and receive all and singular such things as our court shall then and there consider of him in that behalf, and that you have then there this writ. Witness, Lloyd lord Kenyon, at Westminster, the sixth day of June, in the thirty-ninth year of our reign. By the court, Templer.

(Indorsed on the writ as follows.) The execution of this writ appears in a certain schedule hereunto annexed. J. K. Keeper. Return to writ of Habeas Corpus. (b)

I, J. K. keeper of his majesty's gaol of Newgate, in the writ to this schedule annexed named, do certify and return to our sovereign lord the king, that before the coming to me of the said writ, (that is to say) on the third day of May, B. F. in the said writ, also named, was committed to my custody, by virtue of a certain warrant of commitment, the tenor of which is as follows: [*here was inserted a copy of the warrant.*] And these are the causes of the detaining of the said B. F. whose body I have here ready, as by the said writ I am commanded. J. K. Keeper.

George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, to C. D. and E. F. esquires, two of our justices assigned to keep our peace in and for the county of Essex, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed within our said county, and to every of them, greeting. Writ of certiorari to two committing justices to certify information, examination, and depositions upon which prisoner was committed.

We being willing for certain reasons that all and singular informations, examinations, and depositions, taken by and remaining with you, or either of you, in a certain case of felony, or suspicion of felony, charged against A. B. and for which you, or one of you, have committed the said A. B. to the prison of ———, as it is said, be sent by you before us, do command you, and every of you, that you, or one of you, do send us immediately after the receipt of this our writ, all and singular the said informations, examinations, and depositions, with all things touching the same, as fully (c)

(b) See Returns Hand's Prac. writ of Habeas Corpus, from the 521. 8 T. R. 314. see other returns Impey's Off. Sheriff. 1st Ed. Crown Office, in order that the Court or Judge may ascertain whether there is ground to bail a Prisoner committed for felony, 526, 7. Bro. Red. 385. Bro. Vad. 548. see a form 2 Wils. 153.

(c) See ante 2 vol. 127, 8. This writ is usually issued with the ante 1 vol. 127, 8.

[*125]

and perfectly as they have been taken before you, and now remaining in your custody by whatsoever name the said A. B. is called in the same, together with this writ, that we may further cause to be done therein what of right and according to the law and custom of England we shall see fit to be done. Witness, Edward Lord E. at* Westminster, the — day of —, in the — year of our reign. Templer.

By the court, indorsed at the instance of the within named defendants, by rule of court. (d)

Return of the
two justices
to such writ
of certiorari.
(e).

The return of the justices to the above writ of certiorari may be made by the following indorsement on the writ:

“The execution of this writ appears in a schedule to the same writ annexed.” Such schedule may be on a piece of parchment by itself, and annexed to the writ, and in the following words:

Essex. We, C. D. and E. F. esquires, two of the justices of our lord the king assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespass, and other misdemeanours in the same county committed, by virtue of, and in obedience to, this writ to us directed and delivered, do, under our respective seals, certify unto his majesty, in his court of king's bench, the informations, examinations, and depositions, of which mention is made in the same writ, together with all matters touching the said charge in the said writ mentioned, and which said information, examination, and depositions, are hereunto annexed and marked A, B, C, D, &c. In witness whereof we, the said C. D. and E. F. have, to these presents, set our respective seals. Given at —, in the said county, the — day of —, in the year of our Lord 1816.

C. D. (L. S.)

E. F. (L. S.)

The information, examination, and depositions, are then to be inclosed within the schedule, and sealed up together with the writ of certiorari. (f)

The like return by one justice. (g)

Essex, (to wit.) I, E. F. one of the keepers of the peace, and justices of our lord the king assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and misdemeanours, in the same county committed, by virtue of this writ to me delivered, do, under my seal, return unto his majesty, in his court of king's bench, the information, examination, and depositions, of which mention is made in the same writ, together with all matters concerning the same. In witness whereof I, the said E. F. have to these presents set my seal. Given at —, in the said county, the — day of —, in the — year of the reign of king George the third.

E. F. (L. S.)

(d) If by fiat of a Judge the indorsement will be accordingly. Sess. 359.

(f) Burn, J. Certiorari, IV.

(e) Ante 1 vol 127, 8. see Burn, (g) Dick. Sess. 395. Dalt. J. c. & Certiorari, IV. and see Dick. 122. p. 289. c. 195. p. 582.

Take* notice, that T. H. now a prisoner in his majesty's gaol of Aylesbury, in and for the county of B. on a charge of killing and slaying E. H. his late wife, will be brought up by virtue of his majesty's writ of habeas corpus before the honourable Sir S. Le B. one of the justices of his majesty's court of king's bench, on Saturday next, the twenty-second day of January instant, by eleven o'clock in the forenoon of the same day, at his chambers in Serjeant's Inn, Chancery lane, London, or before such other of the judges of the said court of king's bench, who shall be then present at his chambers in Serjeant's Inn aforesaid, in order to the said T. H. being admitted to bail for his personal appearance at the next sessions of over and terminer and general gaol delivery, to be held in and for the county of B. then and there to answer all such matters and things as shall be objected against him in his majesty's behalf, and the names of the bail are W. P. of the parish of C. in the county of B. farmer; W. L. of the same parish, yeoman; I. C. of D. B. in the county of H. husbandman; and W. H. of W. in the county of H. carpenter. Dated this nineteenth day of January, 1803.

Notice of
bail at the
judge's
chambers.

(i)
[* 126]

Yours, &c. J. A. solicitor for the said T. H.
To I. G. overseer of the parish of E. the prosecutor, and also
to I. P. gentleman, one of the coroners for the county
of B.

Friday next after fifteen days of St. Martin, in the forty-third year of king George the third.

Special rule
of K. B. to
remand pri-
soner where
his original
commitment
was defec-
tive. (k)

England, Wiltshire. George Marks being brought here into court, in custody of the keeper of his majesty's gaol at Devizes, in and for the county of Wilts, by virtue of a writ of habeas corpus, it is ordered, that the said writ, and the return made thereto, be filed. And upon reading the several informations upon oath of, &c. returned in obedience to a writ of certiorari, directed to R. L. and T. H. P. two of his majesty's justices of the peace in and for the county of Wilts; and upon hearing counsel on both sides it is ordered, that he the said George Marks be now discharged from his imprisonment by virtue of the warrant in the said return mentioned, and that he the said George Marks be recommitted to the custody of the said keeper for unlawfully and feloniously being aiding and assisting at, and present at, and consenting to, the administering and taking of an oath or engagement, purporting* and intended to bind T. B. the person taking the same to be of an association, society,

[* 127]

(i) See Hand's Pr. 522. The defendant was committed for a manslaughter on the coroner's inquisition, but on an affidavit of the circumstances he obtained a habeas corpus, upon which he was brought up agreeably to the above notice, and bailed. As to the notice of bail in general, see ante 1 vol. 131, 93, 103.

(k) See form 3 East, 166. ante 1 vol. 131, 2.

and confederacy formed to disturb the public peace, and not to inform or give evidence against any associate, confederate, or other person, and not to reveal or discover a certain unlawful combination and confederacy, and not to reveal and discover a certain illegal act done against the peace, &c. and also against the terms of the statute in such case made and provided, to be by him kept in safe custody until he shall be from thence discharged by due course of law.

[* 128]

CHAPTER* IV.

THE COMMISSIONS, &c. UNDER WHICH THE CRIMINAL COURTS ARE HELD.

Form of the
commission
of the peace.
(a)

GEORGE the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, To A. B. C. D. &c. greeting. Know ye, that we have assigned you jointly and severally, and every one of you, our justices to keep our peace in our county of W. and to keep, and cause to be kept, all ordinances and statutes for the good of the peace, and for preservation of the same, and for the quiet rule and government of our people made in all and singular their articles in our said county, (as well within liberties as without) according to the force, form, and effect of the same ; and to chastise and punish all persons that offend against the form of those ordinances or statutes, or any

(a) Ante 1 vol. 133 to 141. This form was settled by the Judges about 33d year of Queen Elizabeth, Hawk. b. 2. c. 8. s. 22. As to this form, see 2 Hale, 42. Burn, J. tit. Justices of the Peace, II. Williams Justice, tit. Justices of the Peace, III. and cases there cited. Dick. J. Peace Justices of. Burn, J. Justices of the Peace, II. Lambert, c. 9. Dick. Sess. 22 and 23.

one of them, in the aforesaid county, as it ought to be done according to the form of those ordinances and statutes; and to cause to come before you, or any of you, all those who to any one or more of our people concerning their* bodies, or the firing of their houses, have used threats, to find sufficient security for the peace, or their good behaviour towards us and our people; and if they shall refuse to find such security, then them in our prisons until they shall find such security to cause to be safely kept. [* 129]

We have also assigned you, and every two or more of you, (of whom any one of you, the aforesaid A. B. C. D. &c. we will shall be one) our justices, to enquire the truth more fully by the oath of good and lawful men, of the aforesaid county, by whom the truth of the matter shall be the better known of all and all manner of *felonies*, (b) *poisonings*, *inchantments*, *sorceries*, *arts magic*, *trespasses*, *forestallings*, *regratings*, *ingrossings*, and *extortions whatsoever*; and of all and singular other crimes and offences, of which the justices of our peace may or ought lawfully to inquire, by whomsoever, and after what manner soever, in the said county done or perpetrated, or which shall happen to be there done or attempted, and also of all those who, in the aforesaid county, in companies against our peace, in disturbance of our people, with armed force, have gone or rode; or hereafter shall presume to go or ride, and also of all those who have there lain in wait, or hereafter shall presume to lie in wait, to maim, or cut, or kill our people; and also of all victuallers, and all and singular other persons, who, in the abuse of weights or measures, or in selling victuals, against the form of the ordinances and statutes, or any one of them therefore made for the common benefit of England and our people thereof, have offended or attempted, or hereafter shall presume in the said county to offend or attempt; and also of all sheriffs, bailiffs, stewards, constables, keepers of gaols and other officers, who, in the execution of their offices about the premises, or any of them, have unduly behaved themselves, or hereafter shall presume to behave themselves unduly, or have been, or shall happen hereafter to be careless, remiss, or negligent, in our aforesaid county. And of all and singular articles and circumstances, and all other things whatsoever that concern the premises, or any of them, by whomsoever, and after what manner soever, in our aforesaid county done or perpetrated, or which hereafter shall there happen to be done or attempted in what manner soever: and to inspect all indictments whatsoever so before you, or any of you, taken, or to be taken, or before others late our justices of the peace, in the aforesaid county, made or taken,

(b) As to the construction of Dalton J. c. 5. and ante 1 vol. the power under these words, see 138. Dalt. Just. c. 5.

and not yet determined ; and to make and continue process thereupon, against all and singular the persons so indicted, or who before you hereafter shall happen to be indicted, until they can* be taken, surrender themselves, or be outlawed :
 [* 130] and to hear and determine all and singular the felonies, poisonings, inchantments, sorceries, arts magic, trespasses, forestallings, regratings, ingrossings, extortions, unlawful assemblies, indictments aforesaid, and all and singular other the premises, according to the laws and statutes of England, as in the like case it has been accustomed or ought to be done ; and the same offenders, and every of them, for their offences, by fines, ransoms, amerciaments, forfeitures, and other means, as according to the law and custom of England, or form of the ordinances and statutes aforesaid, it has been accustomed, or ought to be done to chastise and punish.

Provided always, that if a case of difficulty upon the determination of any the premises before you, or any two or more of you, shall happen to arise, (c) then let judgment in no wise be given thereon before you, or any two or more of you, unless in the presence of one of our justices of the one or other bench, or of one of our justices appointed to hold the assizes in the aforesaid county.

And therefore we command you, and every of you, that to keeping the peace, or ordinances, statutes, and all and singular other the premises, you diligently apply yourselves, and that at certain days and places which you, or any such two or more of you, as is aforesaid, shall appoint for these purposes, into the premises ye make inquiries ; and all and singular the premises, hear, and determine, and perform, and fulfil them, in the aforesaid form, doing therein what to justice appertains, according to the law and custom of England : saving to us the amerciaments and other things to us therefrom belonging.

And we command by the tenor of these presents, our sheriff of W. that at certain days and places which you, or any such two or more of you as is aforesaid, shall make known to him, cause to come before you, or such two or more of you as aforesaid, so many and such good and lawful men of his bailiwick, (as well within liberties as without) by whom the truth of the matter in the premises shall be the better known and inquired into.

Lastly, we have assigned to you the aforesaid A. B. keeper of the rolls of our peace in our said county ; and therefore you shall cause to be brought before you, and your said fellows, at the days and places aforesaid, the writs, precepts, processes, and indictments aforesaid, that they may be inspected, and by a due course determined as is aforesaid.

(c) As to these words, 4 Bla. Christian's edition. C. 271. and id. note 11. Mr.

In* witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, &c. [* 131]

Essex. The general quarter sessions of the peace holden at —, in the town of —, in and for the said county, on the — day of —, in the — year of the reign of our sovereign lord, George the third, of the united kingdom of Great Britain and Ireland, king, defender of the faith, and so forth, before C. D. E. F. G. H. and I. K. esquires, justices of our sovereign lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, and of the quorum, and so forth. Style of Sessions. (d)

In the name and on the behalf of his majesty.
George, P. R.
Lent circuits, } Let the judges go their several circuits in
1815. } manner following:
Norfolk circuit.
Lord Ellenborough, chief justice,
Mr. Justice Heath.
Midland circuit.
Lord Chief Justice Gibbs,
Mr. Justice Bayley.
Northern circuit.
Lord Chief Baron Thomson,
Mr. Justice Le Blanc.
Home circuit.
Mr. Justice Chambre,
Mr. Baron Wood.
Western circuit.
Mr. Baron Graham,
Mr. Justice Dampier.
Oxford circuit.
Mr. Justice Dallas,
Mr. Baron Richards.

Form of the King's Fiat, appointing the Judges in general to go the Circuits. (e)

In* the name and on the behalf of his majesty.
George P. R.
Lent circuit, } Let the following persons be added to the
1815. } judges who go the circuits respectively and be
of the quorum, viz.
Home circuit.
Mr. Serjeant Best,
Mr. Serjeant Runnington;

[* 132]
Form of the King's Fiat, appointing Serjeants, King's Council and other gentlemen of the Quorum. (f)

(d) See form Dick. Sess. 19. ante 1 vol. 133 to 141.

(e) See ante 1 vol. 148, 9.

(f) Ante 1 vol. 148, 9.

Mr. Serjeant Onslow,
 Mr. Serjeant Bosanquet,
 Sir John Silvester, baronet,
 Newman Knowlys,
 Jerome William Knapp, esqs. } in the commissions of
 Oyer and Terminer,
 and gaol delivery.
 Norfolk circuit.

George Wilson, esq. one of his majesty's council, learned in the law, in the commissions of Oyer and Terminer and gaol delivery.

Mr. Serjeant Marshall, Mr. Serjeant Blosset,
 Mr. Serjeant Sellon, Mr. Serjeant Frere.
 Midland circuit.

Nathaniel Gooding Clarke, esq. one of his majesty's council, learned in the law, in the commissions of Oyer and Terminer, and gaol delivery.

Mr. Serjeant Palmer, Mr. Serjeant Rough,
 Mr. Serjeant Vaughan, Mr. Serjeant Copley,
 John Balguy, esq. in the commissions of Oyer and Terminer, and gaol delivery
 Western circuit.

Mr. Serjeant Lens,
 Joseph Jekyll, esq. one of his majesty's council, learned in the law, in the commissions of Oyer and Terminer and gaol delivery.

Mr. Serjeant Praed,
 Mr. Serjeant Pell.

Oxford circuit.

Thomas Jervis, esq. in the commissions of Oyer and Terminer, and gaol delivery.

[* 133]

Mr.* Serjeant Runnington,
 Mr. Serjeant Marshall,
 Mr. Serjeant Heywood,
 Mr. Serjeant Palmer.

Northern circuit.

James Allan Park, esq. one of his majesty's council, learned in the law,

James Topping, esq. one other of his majesty's council, learned in the law, in the commissions of Oyer and Terminer, and gaol delivery,
 Mr. Serjeant Heywood.

Form of the
 King's Fiat,
 appointing a
 counsel of
 the Quorum
 in the Com-
 missions of
 Oyer and
 Terminer,
 (g)

In the name and on the behalf of his majesty.
 George P. R.

Lent circuit, } Let James Burrough, esq. be inserted in
 1815. } the commissions of Oyer and Terminer, and
 gaol delivery for the western circuit, and be of the quorum.

(g) Ante 1 vol. 148,9.

A commission of Oyer and Terminer for the counties of Southampton, Wilts, &c.

Form of the
Chancellor's
Fiat for the
Western Cir-
cuit Com-
mission. (h)

John, Lord Eldon, chancellor, &c.

Dudley, Earl of Harrowby, president of the council,

John, Earl of Westmoreland, keeper of the privy seal,

George, Duke of Marlborough,

Thomas, Marquis of Bute,

George Augustus, Earl of Pembroke and Montgomery,

John, Earl Poulet,

John, Earl of Portsmouth,

Richard, Earl of Mount Edgcumbe,

Hugh, Earl Fortescue,

Edward, Earl of Digby,

James, Earl of Malmesbury, (i)

Quorum. { Sir Robert Graham, knt. one of the barons of
the Court of exchequer,

Sir Henry Dampier, knt. one of the justices as-
signed to hold pleas before the king himself, (k)

Quorum. { John* Lens, one of his majesty's serjeants at law, [* 13
Joseph Jekyll, esq. one of his majesty's council,
learned in the law,

William Mackworth Praed,

Albert Pell, Serjeants at law, (l)

James Burrough, (m)

Thomas Chambre, esqs.

Henry Cooper,

James Henry Earl, and

Harold Nuttal Tomlins, gents. (n)

Let a commission be made, dated the 23rd day of
January, 1815.

To the clerk of the crown, or his deputy.

Eldon, C.

Form of
Judge's Fiat,
appointing
an associate.

Let the name of John Charles Williams, gent. be inserted
in the commissions of assize, Oyer and Terminer, and ge-
neral gaol delivery for the Oxford circuit, in the stead and
place of Charles Powell, gent. Given under my hand, this
sixth day of July, 1814.

R. Dallas.

To the clerk of the crown, or his deputy.

(h) See ante 1 vol. 148,9.

these names is the King's Fiat
ante 131.

(i) These names, the Chancel-
lor, President of the Council, and
Lord Privy Seal for the time be-
ing, and other Noblemen in the
district of the circuit, are put in
as a matter of course, and are
taken from the Chancellor's Fiat
of the last Circuit Commission by
the Secretary of Commissions,
who prepares this Fiat for the
Chancellor to sign.

(l) The authority for inserting
these names is the King's Fiat
ante 132.

(m) The authority for inserting
this name is the King's Fiat ante
132.

(n) When any alteration or ad-
dition of Names is made to the
Associates, it is done by a Judge's
Fiat, see next form.

(k) The authority for inserting
Crim. Law.

(o) Ante 1 vol. 148,9.

VOL. IV.

R

Commission
of Oyer and
Terminer on
Circuit. (p)

[* 135]

George the Third, by the grace of God of the united Kingdom of Great Britain and Ireland, King, Defender of the Faith, To our beloved and faithful, &c. [*Insert names of all the commissioners named in the chancellor's fiat, chancellor, president of the council, Lord Privy seal, several other noblemen, two judges, king's council, serjeants, and associates*] Greeting, know ye that we have assigned you, and any two of you, of whom one of you the said [*judges, king's council, and serjeants, naming them*] we will shall be one, our justices to inquire more fully the truth by the oath of good and lawful men of our counties of (q) Buckingham, Bedford, Huntingdon, Cambridge, Suffolk, and Norfolk, and in our county of the city of Norwich, and by every of them, and by other ways, means, and methods by which you shall or may better know (as well within liberties as without) by whom the truth of the matter may be the better* known and inquired into, of all treasons, misprisions of treasons, insurrections, rebellions, counterfeitings, clippings, washings, false coinings, and other falsities of the money of our united kingdom of Great Britain and Ireland, and other kingdoms or dominions whatsoever: and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them, within the counties and city aforesaid, or any of them (as well within liberties as without), by whomsoever and in what manner soever done, committed, or perpetrated, and by whom or to whom when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them, or any of them, in any manner whatsoever; and the said treasons and other the premises, according to the laws and customs of England, for this time to hear and determine: and therefore we command you that at certain days and places, which you or any two of you, of whom one of you the said [*the judges, king's council, and serjeants, naming them*] we will shall be one, shall appoint for this purpose, you make diligent inquiries about the premises, and hear and determine all and singular the premises, and do and fulfil them in the aforesaid form, doing therein what to justice does appertain according to the laws and customs of England, saving to us the amerciements and

(p) See ante 1 vol. 143. This is the form on the Norfolk Circuit, it is made up square with a label for the Great Seal. The same form is adopted on all the Circuits except the northern, of

which see the form post.

(q) The names of counties and cities, &c. in the other Circuits, are inserted according to the Circuit.

other things from thence to us accruing. For we have commanded our sheriffs of our counties and city aforesaid, that at such days and times as you or two of you, of whom one of you the aforesaid, &c. [*the judges, king's council, and serjeants, naming them*] we will shall be one, shall make known to them, they cause to come before you, or two of you, of whom one of you the aforesaid, &c. [*the judges, king's council, and serjeants, naming them*] we will shall be one, so many and such good and lawful men of their bailiwicks (as well within liberties as without), by whom the truth of the premises may be better known and inquired into: in witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster the twenty-fourth day of January, in the fifty-fifth year of our reign.

Bathurst and Bathurst.

George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. To our beloved* and faithful, John Heath, one of the justices of our court of common pleas, Sir Simon Le Blanc, knight, one of our justices assigned to hold pleas before us, Thomas Plumer, esq. one of our council, learned in the law, Hugh Leycester, esq. one other of our council, learned in the law, John Williams, serjeant at law, Meredith Price, esq. Benjamin Pugh, Benjamin Price, and William Beresford, gentlemen, Greeting, Know ye that we have constituted you four, three, or two of you, of whom one of you, the said John Heath, Sir Simon Le Blanc, William Plumer, Hugh Leycester, and John Williams, we will shall be one, our justices *to deliver our gaol* of our county of Berks of the prisoners therein being, and therefore we command you that at a certain day, which you four, three, or two of you, of whom one of you the said John Heath, Sir Simon Le Blanc, William Plumer, Hugh Leycester, and John Williams, we will shall be one, shall appoint for this purpose you meet at Abingdon (s) *to deliver that gaol*, doing therein what to justice appertains, according to the laws and customs of England, saving to us the amerciaments and other things to us from thence accruing. For we have commanded our sheriff of the county of Berks, that at a certain day, which you four, three, or two of you, of whom one of you, the said John Heath, Sir Simon Le Blanc, William Plumer, Hugh Leycester, and John Williams, we will shall be one, shall acquaint him with, he cause all the prisoners of the same gaol, and their attachments before you, four, three, or two of you, of whom one of you the said

Commission
of Gaol De-
livery on
Circuit. (r)
[* 136]

(r) This writ is directed to the Judges, Serjeants, King's Counsel, and Associates, appointed to go the particular circuit. This is the form for Abingdon, Berks, on the Oxford. The gaol

deliveries are the same on all the Circuits. A separate Commission is made for each gaol, see ante 1 vol. 145. 3 Bla. C. 60.

(s) The towns are taken from the Circuit papers.

John Heath, Sir Simon Le Blanc, William Plumer, Hugh Leycester, and John Williams, we will shall be one, there to come. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the thirteenth (*t*) day of June, in the fortieth year of our reign.

Yorke.

Commission
of Assize on
Home Cir-
cuit. (z)

[* 137]

George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, To our beloved and faithful Sir Beaumont Hotham, knight, one of the barons of our court of exchequer, John Heath, esq. one of the justices of our court of common pleas, Samuel Shepherd, one of our serjeants at law, Charles Runnington, Sir John William Rose, Arthur* Palmer, John Bayley, William Draper Best, and Arthur Onslow, serjeants at law, Greeting, know ye that we have constituted you, together with those whom we have associated to you, our justices *to take all the assizes*, juries, and certificates before whatsoever justices arraigned, as well by divers writs of the lady Anne, First of England, &c. and afterwards of Great Britain, &c. late queen, and also by divers writs of the Lord George the First, and of Lord George the Second, late kings of Great Britain, &c. as by divers of our own writs in our counties of Hertford, Essex, Kent, Sussex, and Surrey, and in our county of the city of Canterbury. And therefore we command you, that at certain days and places, which you shall appoint for this purpose, you take those assizes, juries, and certificates, doing therein what to justice does appertain, according to the laws and customs of England, saving to us the amerciaments and other things to us from thence accruing. For we have commanded our sheriffs of our counties and city aforesaid, that at certain days and places, which you shall make known to them, they cause those assizes, juries, and certificates, together with the original writs, and all other things relating to them, to come before you. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the twenty-third day of January, in the forty-second year of our reign.

Bathurst and Bathurst.

Commission
of Associa-
tion on Home
Circuit. (x)

George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, To our beloved and faithful William Gould Jerome, William

(*t*) To be dated the first day of Term, when no Serjeant or King's Council have since been appointed, in which case the different Commissions should be dated when the last of such persons have been sworn.

(*u*) The forms on the other

Circuits are the same, except as to the names of the Commissioners. See ante 1 vol. 147. 3. Bla. C. 60.

(*x*) The forms on the other circuits are the same except as to the names of the Commissioners, see ante 1 vol. 148, 3 Bla. C. 60.

Knapp, esqs. Thomas George Knapp, and John Stafford, gentlemen, Greeting, know ye, that whereas we have constituted our beloved and faithful Sir Beaumont Hotham, knight, one of the barons of our court of exchequer, John Heath esquire, one of the justices of our court of common pleas, Samuel Shepherd, one of our serjeants at law, Charles Runnington, Sir John William Rose, knight, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, serjeants at law, our justices to take all the assizes, juries, and certificates, before whatsoever justices arraigned, as well by divers writs of the lady Anne First of England, &c and afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the First, and of lord George the Second, late kings of Great Britain, &c. as by divers of our own writs in our counties of Hertford, Essex, Kent, Sussex, and Surrey, and in our county of the city of Canterbury, *we have associated you*, to the said Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington,* Sir John William Rose, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, to take all the aforesaid assizes, juries, and certificates for this time, and therefore we command you that to the taking the assizes, juries, and certificates aforesaid, together with the aforesaid Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, *you associate yourselves*, doing therein what to justice does appertain, according to the laws and customs of England, saving to us the amerciaments and other things to us therefrom accruing, for we have commanded the same Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, that they admit you for this purpose, as associates in form aforesaid. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the twenty-third day of January, in the forty-second of our reign. Bathurst and Bathurst.

To our beloved and faithful Sir Beaumont Hotham, knight, one of the barons of our court of exchequer, John Heath, esquire, one of the justices of our court of Common Pleas; Samuel Shepherd, one of our Serjeants at law; Charles Runnington, Sir John William Rose, knight, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, serjeants at law. A writ of association.

Bathurst and Bathurst.

George the third, by the grace of God of the united king-

(y) On parchment annexed to ante 1 vol. 148. 3. Bla. C. 60. the writ. This writ does not seem to have

(z) The forms are the same on all the circuits, except in the names of the commissioners, see been in general use till about the year 1723.

Label to writ of Association. (y)

Writ of Association, Home Circuit. (z)

dom of Great Britain and Ireland king, defender of the faith, To our beloved and faithful Sir Beaumont Hotham, knight, one of the barons of our court of exchequer, John Heath, esquire, one of the justices of our court of common pleas, Samuel Shepherd, one of our serjeants at law, Charles Runnington, Sir John William Rose, knight, Arthur Palmer, John Bayley, William Draper Best and Arthur Onslow, serjeants at law, greeting.

[* 139] Whereas we have constituted you our justices to take all the assizes, juries, and certificates, before whatsoever justices arraigned, as well by divers writs of the Lady Anne, First of England, &c. and afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the first, and of lord George the second, late kings of Great Britain, &c: as by divers of our own writs, in our counties of Hertford, Essex, Kent, Sussex, and Surrey, and in our* county of the city of Canterbury, and have associated our beloved and faithful William Gould, Jerome William Knapp, esquires, Thomas George Knapp, and John Stafford, gentlemen, to you the aforesaid Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, William Draper, Best, and Arthur Onslow, to take all the aforesaid assizes, juries, and certificates, together with you for this time. We command you, that the same William Gould, Jerome William Knapp, Thomas George Knapp, and John Stafford, to the taking the said assizes, juries, and certificates, together with you, to this end *you admit into your society* in manner aforesaid, for we have commanded the same William Gould, Jerome William Knapp, Thomas George Knapp, and John Stafford, that to the taking the assizes, juries, and certificates, aforesaid, *together with you they associate themselves* in form aforesaid. Witness ourself at Westminster, the twenty-third day of January, in the forty-second year of our reign. Bathurst and Bathurst.

Label to writ
of Si non
omnes.

To our beloved and faithful Sir Beaumont Hotham, knight, one of the barons of our court of exchequer, John Heath, esquire, one of the justices of our court of common pleas, Samuel Shepherd, one of our serjeants at law, Charles Runnington, Sir John William Rose, knight, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, serjeants at law, William Gould, Jerome William Knapp, esquires, Thomas George Knapp, and John Stafford gentlemen. A writ of si non omnes. Bathurst and Bathurst.

Writ of Si
non omnes
on Home
Circuit. (a)

George the third, by the grace of God of the united king-

(a) The writs are the same on writ does not appear to have all the circuits, see Jacob. dic. been in general use till about tit. si non omnes, and 3 Bla. Com. A. D. 1722. 59, 60. Ante 1 vol. 148. This

dom of Great Britain and Ireland king, defender of the faith, To our beloved and faithful Sir Beaumont Hotham, knight, one of the barons of our court of exchequer, John Heath, esquire, one of the justices of our court of common pleas, Samuel Shepherd, one of our serjeants at law, Charles Runnington, Sir John William Rose, knight, Arthur Palmer, John Bayley, William Draper Best and Arthur Onslow, serjeants at law, William Gould, Jerome William Knapp, esquires, Thomas George Knapp, and John Stafford, gentlemen, greeting.

Whereas we have constituted you the aforesaid Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, our justices to take all the assizes, juries, and certificates, before whatsoever justices arraigned, as well by divers writs of the Lady Anne First of England, &c. and* afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the first, and of lord George the second, late kings of Great Britain, &c. as by divers of our own writs, in our counties of Hertford, Essex, Kent, Sussex, and Surrey, and in our county of the city of Canterbury. And whereas we have associated you the aforesaid William Gould, Jerome William Knapp, Thomas George Knapp, and John Stafford to you the said Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, to take all the assizes, juries, and certificates aforesaid, together with you for this time, we command *you that if you all cannot conveniently be present at the taking of the assizes, juries, and certificates aforesaid, then two of you who shall happen to be present, of whom one of you the aforesaid Sir Beaumont Hotham, John Heath, Samuel Shepherd, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, William Draper Best, and Arthur Onslow, we will shall be one, proceed to the taking of the assizes, juries, and certificates aforesaid.* Witness ourself at Westminster, the twenty-third day of January, in the forty-second year of our reign. Bathurst and Bathurst.

George the third, &c. To A. B. C. D. &c. [*all the privy counsellors, arranging the peers, &c. in the fiat ante 133, in their proper order,*] Greeting.

Commission
of the Peace
for Durham,
(b)

Know ye, that we have assigned you, jointly and severally, and every one of you, our justices to keep our peace in our county Palatine of Durham and Sadburgh, and to keep, and cause to be kept, all the ordinances and statutes for the good

(b) See ante 1 vol. 148. This same. See the notes to that preform will suffice for every county. The form ante 128 is the

[* 141]

of our peace and people, and for the preservation of the same, and for the quiet rule and government of our people, made in all and singular their articles in our said county Palatine, as well within liberties as without, according to the force, form, and effect of the same; and to chastise and punish all persons that offend against the form of those ordinances or statutes, or any one of them, in the aforesaid county Palatine, as it ought to be done, according to the form of those ordinances and statutes, and to cause to come before you, or any one of you, all those who, to any one or more of our people, concerning their bodies, and for the firing of their houses, have used threats, to find sufficient security for the peace of their good behaviour towards us and our people; and if they shall refuse to find such security, then them in our prisons until they shall find such security to cause to be safely kept, we have also assigned you, and* every two or more of you, of whom any one of you the aforesaid A. B. C. D. &c. we will shall be one, our justices to enquire the truth more fully by the oath of good and lawful men of the aforesaid county Palatine, by whom the truth of the matter shall be the better known, of all and all manner of felonies, poisonings, enchantments, sorceries, arts, magic, trespasses, forestallings, regratings, engrossings, and extortions whatsoever, and of all and singular other crimes and offences, of which the justices of our peace may, or ought lawfully to inquire, by whomsoever and after what manner soever in the said county Palatine done or perpetrated, or which shall happen to be there done or attempted: and also of all those who, in the aforesaid county Palatine, in companies against our peace, in disturbance of our people, with armed force have gone or rode, or hereafter shall presume to go or ride; and also of all those who have there lain in wait, or hereafter shall presume to lie in wait, to maim, or cut, or kill our people; and also of all victuallers, and all and singular other persons, who, in the abuse of weights or measures, or in selling victuals, against the form of the ordinances and statutes, or any one of them, theretofore made for the common benefit of England, and our people thereof, have offended or attempted, or hereafter shall presume, in the said county Palatine, to offend or attempt; and also of all sheriffs, bailiffs, stewards, constables, keepers of gaols, and other officers, who, in the execution of their offices, about the premises, or any of them, have unduly behaved themselves, or hereafter shall presume to behave themselves unduly, or have been, or shall happen hereafter to be, careless, remiss, or negligent, in our aforesaid county Palatine: and of all and singular articles and circumstances, and all other things whatsoever that concern the premises, or any of them, by whomsoever, and after what manner soever, in our aforesaid county Palatine done or perpetrated, or which hereafter shall there happen to be done or attempted, in what manner soever; and to inspect all indictments whatsoever so before you, or any

of you, taken, or to be taken, or before others late our justices of the peace, in the aforesaid county Palatine, made or taken, and not yet determined; and to make and continue processes thereupon, against all and singular the persons so indicted, or who before you hereafter shall happen to be indicted, until they can be taken, surrender themselves, or be outlawed; and to hear and determine all and singular the felonies, poisonings, enchantments, sorceries, arts, magic, trespasses, forestallings, regratings, ingrossings, extortions, unlawful assemblies, indictments aforesaid, and all and singular other the premises, according to the laws and statutes of England, as in the like case it has been accustomed, or ought to be done; and the same* offenders, and every of them, for their offences, by fines, ransoms, amerciaments, forfeitures, and other means, as according to the law and custom of England, or form of the ordinances or statutes aforesaid, it has been accustomed, or ought to be done, to chastise and punish. Provided always, that if a case of difficulty upon the determination of any of the premises before you, or any two of you or more of you, shall happen to arise, then let judgment in no wise be given thereon before you, or any two or more of you, unless in the presence of one of our justices of the one or the other bench, or one of our justices appointed to hold the assizes in the aforesaid county Palatine. And therefore we command you, and every of you, that to keeping the peace, or ordinances, statutes, and all and singular other the premises, you diligently apply yourselves, and that at certain days and places which you, or any such two or more of you, (as is aforesaid,) shall appoint for these purposes, into the premises you make inquiries, and all and singular the premises hear and determine, and perform and fulfil them in the aforesaid form, doing therein what to justice appertains, according to the law and custom of England, saving (c) always to the aforesaid lord bishop of Durham the amerciaments and other things always to the aforesaid lord bishop of Durham therefrom belonging. And we command, by the tenor of these presents, our sheriff of the said county Palatine, that at certain days and places which you, or any such two or more of you, as is aforesaid, shall make known to him, he cause to come before you, or such two or more of you, as aforesaid, so many and such good and lawful men of his bailiwick, (as well within liberties as without) by whom the truth of the matter in the premises shall be better known and inquired into. Lastly, we have assigned you the aforesaid A. B. keeper of the rolls of our peace in our said county Palatine. And therefore you shall cause to

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(c) When for Chester "saving also for Cambridge, say "Bailiff to us." When for Ely say of the said town of Cambridge,"
 * Bailiff of the said Isle." So

be brought before you, and your said fellows, at the days and places aforesaid, the writs, precepts, processes, and indictments aforesaid, that they may be inspected, and by a due course determined as is aforesaid. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the ——— day of ———, in the ——— year of our reign. Bathurst and Bathurst.

Form of
Commission
of Oyer and
Terminer for
London or
Middlesex.
(d)
[* 143]

George the third, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith, to our beloved and faithful Sir W. Leighton, knt. mayor of our city of London and* the mayor of our said city, for the time being, our well beloved and faithful counsellor Thomas Lord Erskine, Chancellor of that part of our united kingdom of Great Britain and Ireland, called Great Britain, and our Chancellor of Great Britain, for the time being, our most dear cousins and councillors, Henry, Viscount Sidmouth, President of our council, Henry Richard, Lord Holland, keeper of privy seal, Augustus Henry, Duke of Grafton, George, Duke of Marlborough, William Henry, Duke of Portland, George Granville, Marquis of Stafford, James, Marquis of Salisbury, Francis, Marquis of Hertford, John, Marquis of Bute, Henry, Earl of Aylesford, steward of our household: George, earl of Dartmouth, chamberlain of our household; John, earl of Westmorland, John, earl of Sandwich, Robert, earl of Buckinghamshire, George John, Earl Spencer, one of our principal secretaries of state; John, earl of Chatham, George, earl of Leicester, John Jeffreys, Earl Camden, Thomas, earl of Chichester, Charles Gray, commonly called Viscount Howick, one other of our principal secretaries of state; our well beloved and faithful Thomas Dudley, lord Harrowby, Robert Banks, lord Hawkesbury, William Windham, lord Grenville, Henry, lord Mulgrave, John, lord Eldon, Edward, lord Ellenborough, chief justice assigned to hold pleas before us and the Chief Justice of our said court for the time being, sir William Grant, knight, master of the rolls of our court of chancery, and the master of the rolls for the time being, sir James Mansfield, knight, chief justice of our Court of Common Pleas, and the chief justice of our said court, for the time being, sir Archibald Macdonald, knight, chief baron of our court of exchequer, and the chief

(d) See ante 1 vol. 149. This form is in London; but by observing the notes, it may readily be applied to a commission for Middlesex. The commission of oyer and terminer for Middlesex, issues only once in several years. A commission for Middlesex issued in December, 1797, and the next in May, 1808. This form it will be observed differs from the usual circuit commission ante 134,5. the two Chief Justices, the Master of the Rolls, and the other Judges must be placed according to their rank in the law, per Lord Chancellor, 8 Dec. 1788.

baron of the same court for the time being, our beloved and faithful John Heath, esq. one of the justices of our said court of Common Pleas; sir Nash Grose, knight, one of the justices assigned to hold pleas before us, sir Alexander Thomson, knight, one other of the barons of our said court of Exchequer; sir Giles Rooke one other of the justices of our said court of Common Pleas, Sir Soulden Lawrence, knight, one other of the justices assigned to hold pleas before us, Sir Simon Le Blanc, knight, one other of the justices of our said court of Common Pleas, Sir Alan Chambre, one other of the justices of our said court of Common Pleas, Sir Robert Graham, knight, one other of the barons of our said court of Exchequer. Sir* Thomas Manners Sutton, knight, one other of the barons of our said court of Exchequer, and our justices assigned to hold pleas before us, and the justices, and the barons of our said court of Common Pleas and Exchequer, for the time being, Robert Dallas, esq. chief justice of our Counties of Chester and Flint, and the chief justice of our said counties of Chester and Flint for the time being, our beloved and faithful Sir Arthur Piggott, knight, our attorney General, and our attorney General for the time being, our beloved and faithful Sir Samuel Romilly, knight, our solicitor General, and our solicitor General for the time being, our beloved and faithful Sir Watkin Lewes, knight, Nathaniel Newnham, esq. Sir William Curtis, Sir Brook Watson, Sir John William Anderson, Sir Richard Carr Glynn, bart. Harvy Christian Coombe, esq. Sir William Staines, Sir John Eamer, knight, Sir Charles Price, bart. John Perring, James Perring Shaw, esqrs. Aldermen of our said city, John Silvester, esq. recorder of our said city, and the recorder of our said city for the time being, John Ansley, Charles Flower, Thomas Smith, Thomas Rowcroft, Joshua Jonathan Smith, Richard Lea, esqrs. Sir Matthew Bloxam, knight, Claudius Stephen Hunter, John Prinset, Josiah Boydel, George Scholey, John Peter Hankey, and William Denville, esqrs. Aldermen of our said city, and the Aldermen of our said city, for the time being, Newman Knowleys, Walter Long, Francis Maseris, and John Vaillant, esqrs.

Greeting, know ye that we have assigned you, and any two or more of you our justices to enquire more fully the truth, by the oath of good and lawful men of our city of London, and by other ways, means, and methods, by which you shall, or may better know, as well within liberties as without, by whom the truth of the matter may be better known, of all treasons, misprisions of treason, insurrections, rebellions, counterfeitings, clippings, washings, false coinings and other falsities of the money of Great Britain and other kingdoms, or dominions whatsoever, and of all murthers, felonies,

(e) In Middlesex, say "four," ty of Middlesex."

(f) In Middlesex say "Coun-

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manslaughters, killings, burglaries, rapes of women, unlawful meetings, conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempt, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them within the city (*g*) aforesaid as well within liberties as without, by whomsoever and in what manner* soever done, committed or perpetrated, and by whom, or to whom, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them, or any of them in any manner whatsoever, and the said treasons, and other the premises, to hear and determine according to the laws and customs of England. And therefore we command you that at certain days and places, which you or any two, (*h*) or more of you shall appoint for this purpose, you do make diligent inquiries about the premises, and hear and determine all and singular the premises, and do and fulfil them in form aforesaid, doing therein what to justice appertains according to the laws and custom of England, saving to us the amerciaments and other things from thence to us accruing, we also give to all, and singular sheriffs, officers, ministers and other our liege subjects by the tenor of these presents strictly in charge, that to you, or any two (*i*) or more of you in the execution of the premises, they be diligent, advising, assisting, obedient and helping in all things as it becomes; for we command by the tenor of these presents, our sheriffs of our said city of London; (*k*) that at certain days and places which you or any two (*l*) or more of you shall make known to them, they cause to come before you or any two (*m*) or more of you so many and such good and lawful men of the city (*n*) aforesaid, as well within liberties as without; by whom the truth of the premises may be better known and inquired into. In witness whereof we have caused these our letters to be made patent, witness ourself at Westminster the 11th day of November in the forty-third year of our reign.

Bathurst and Bathurst.

Docket for
the last
Commission.

A Commission of Oyer for the city of London (or "County of Middlesex,") (*o*) dated the 17th day of November 1802.

(*p*)

Bathurst and Bathurst.

-
- | | |
|---|---|
| (<i>g</i>) In Middlesex say "County." | (<i>o</i>) This is to be entered in the |
| (<i>h</i>) In Middlesex say "four." | Docquet book and a copy sent to |
| (<i>i</i>) In Middlesex, say "four." | the chancellor when the commis- |
| (<i>k</i>) In Middlesex, say "County of Middlesex." | sion goes to be sealed. |
| (<i>l</i>) In Middlesex, "four." | (<i>p</i>) In the Docquet sent to the |
| (<i>m</i>) In Middlesex "four." | Chancellor, leave sufficient room |
| (<i>n</i>) In Middlesex, "County aforesaid." | for the Chancellor to sign his |
| | name above the Clerk of the |
| | Crown. |

George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, To, &c. [*the same commissioners as in the commission of Oyer and Terminer for the city of London.*] Greeting, know ye that we have constituted you, and any two or more of you our justices, to deliver our gaol of Newgate of the prisoners therein being. And therefore* we command you that at certain days and places which you or any two or more of you shall appoint, to this purpose you meet at the said city, or suburbs of the same to deliver that gaol, doing therein what to justice appertains, according to the laws and customs of our kingdom of England: saving to us the amerciaments and other things to us from thence accruing. For we command our Sheriffs of London and Middlesex, that at certain days and places, which you, or any two or more of you shall acquaint them with, they cause all the prisoners of the same gaol, and their attachments before you, or any two or more of you, there to come. In witness whereof, we have caused these our letters to be made patent, witness ourself at Westminster the 17th (q) day of November, in the forty-third year of our reign.

Bathurst and Bathurst.

Commissions
Gaol Deli.
very for Lon-
don and
Middlesex.

[* 146]

A commission of gaol delivery for the city of London and county of Middlesex. Dated the 17th day of November 1802.

Docquet for
the last Com-
mission.

George, &c. To [*the commissioners as mentioned in the chancellor's fiat,*] greeting, know ye that we, much confiding in your fidelities, industries, and approved circumspection, have assigned you, and any two or more of you, of whom one of the said [naming those of the Quorum] we will shall be one, our justices and commissioners, as well to hear and determine, and to deliver our gaols, as to enquire the truth more fully by the oaths of good and lawful men, within our counties of York, Northumberland, Cumberland, Westmorland, Bishoprick of Durham, City of York and county of the same, city of Carlisle, town of Kingston upon Hull, and county of the same, town of New Castle upon Tyne, and county of the same, town of Berwick upon Tweed, and liberty thereof, and by other ways, means and measures, by which you shall or may the better know, (as well within liberties as without) by whom the truth of the matter may be better known and enquired into, concerning all treasons, misprisions of treasons, insurrections, rebellions, murders, killings, felonies, burglaries, rapes of women, unlawful meet-

Commission
of Oyer and
Terminer for
the Northern
Circuit. (r)

(q) The date should be the same as the fiat. miner is to be made out, the same for the Winter as Summer

(r) This varies from the form on the other circuits, ante 134. circuit, though they do not go to all the places mentioned in it

N.B. All the Commissioners are of the quorum except one, the commission of Oyer and Ter- The one who is not to be of the quorum is marked n.q. in the Chancellor's Fiat.

[* 147] ings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, offences and injuries* whatsoever, as also the accessaries of the same, within the counties, bishoprick, cities and towns aforesaid, or any of them, as well against the form of whatsoever statutes, as the common law within the counties, bishoprick, cities and towns aforesaid, or any of them, by whomsoever and after what manner soever done or committed, or hereafter to be done or committed, and by whom or to whom, when, how, and after what manner, and of all other articles, things and circumstances that concern the premises, or any of them in any manner whatsoever, and to hear and determine according to the laws and custom of England, the same treasons, insurrections, rebellions, murders, killings, unlawful meetings and conventicles, unlawful uttering of words, and other the premises, as well at our suit, as at the suit of any of our subjects whatsoever, that are willing before you, or two of you to complain and prosecute for us, or themselves; And therefore, we command you, that at certain days and places, which you, or two of you from time to time shall appoint for this purpose, you diligently make inquisitions about the premises, and hear and determine all of them, and do and fulfil them in the form aforesaid, doing therein, what to justice appertains according to the laws and customs of England, saving to us the amerciements and other things to us from thence belonging. And we by the tenor of these presents command our Sheriffs of our counties, bishoprick, cities and towns aforesaid, and every of them, that at every of those days and places, which you, or any two of you, shall from time to time make known to them, they cause to come before you, or two of you, so many and such good and lawful men of their bailiwicks (as well within liberties as without) inhabiting, or that shall hereafter inhabit, by whom the truth of the matter in the premises shall be the better known and enquired into, as by you shall be given in command to them. We therefore strictly command all and singular, dukes, earls, barons, knights, mayors, bailiffs, provosts, officers, ministers and others, our liege subjects as well within liberties as without, by the tenor of these presents, that they be attending, advising and helping to you, and every of you, in all things diligently, in executing the premises or any of them. We will also, that our other commissions to enquire, hear and determine, within the counties, bishoprick, cities and towns aforesaid, to whatsoever persons directed, and also all and singular the general commissions of the peace which severally have been made, or hereafter shall be made, to our justices appointed to keep the peace in our counties, bishoprick, cities and towns aforesaid, or any of them, and all things in the

same commissions of our peace, or any of them contained, or hereafter to be contained, do remain in their full force and* effect (these our letters patent notwithstanding) and [* 148] that these our letters patent (notwithstanding any other our commissions, as well to enquire, hear and determine as other our commissions of our peace, to keep the peace within the counties, bishoprick, cities and towns aforesaid, or any of them, to whatsoever persons heretofore made or granted, or hereafter to be made or directed) do remain in all their force and virtue. In witness whereof we have caused these our letters to be made patent, witness ourself at Westminster, &c. York.

George, &c. To A. B. &c. [*naming all the persons in the* Commission of Gaol Delivery for Durham. (s)] *chancellor's fiat*] Greeting, know ye, that we have constituted you, and any three or more of you, of whom some of you, the aforesaid A. B. &c. we will shall be two, our justices to deliver the gaols of Durham and Sedberge from the prisoners that now are or henceforward shall be in the same. And therefore we command you, that at certain days and places, which you, or any three or more of you, whereof we will that you the aforesaid A. B. &c. shall be two, shall appoint for this purpose you meet at Durham and Sedberge, for the delivery of those gaols from time to time, doing therein what to justice appertains, according to the laws and customs of England, saving always to the aforesaid bishop the amer-ciements, and other things to him from thence belonging. For we command by the tenor of these presents the sheriff of the county aforesaid, that at certain days and times, which you or any three of you, of whom we will that some of you the aforesaid A. B. &c. be two, shall make known to him from time to time henceforward all prisoners of the same gaols, and their attachments, before you or three of you as aforesaid from time to time henceforward, he cause them to be brought. In witness, &c. witness, &c.

George, &c. to A. B. &c. [*naming all the persons in the* Commission of Assize for Durham. (t)] *chancellor's fiat*] Greeting, know ye, that we, fully confiding in your fidelity and provident circumspection, have assigned you, and any two or more of you, as well as our justices in Eyre, in our county of Durham and Sedberge, as our justices to hold all assizes, juries, certificates, and attainders, before any of our justices whatsoever, as well by divers writs

(s) This differs from the usual Commission of the Peace also form of Gaol Delivery, ante 135. goes annually with the Durham The Durham commissions are not Commissions of Assize and Gaol to be dated the first day of Delivery, all of which must have Term, as usual on the Circuits, the broad seal.
(t) This differs from the usual persons mentioned in the Chan- form of Commission of Assize cellor's Fiat are of the Quorum, ante 136.
except the last name. A renewed

[* 149]

of the lady Anne First of England, &c. and afterwards of Great* Britain, &c. late queen, and also by divers writs of the lord George the First, and of lord George the Second, late kings of Great Britain, &c. as by divers of our own writs, in the same county of Durham and Sedberge, arraigned. And also all pleas of the crown, as also all pleas and complaints in the county aforesaid, by whomsoever and howsoever moved, or which shall be moved, as well at our suit as at the suit of any others whatsoever, who will complain or prosecute for us, or for themselves, as well before any justices whatsoever aforesaid, or any of them moved, as before our justices moved, or which shall be moved by divers writs of the said late kings, and by divers of our writs before you or any two or more of you in the same county, moved or to be moved, to hear and determine from time to time, according to the law and custom of England, and the custom of Durham hitherto used. And therefore we command you, that at certain days and places, which you or any two or more of you shall provide for this purpose, the assizes, juries, certificates, and attainders aforesaid you hold, and also the pleas and complaints aforesaid, you hear and determine in form aforesaid, doing therein what to justice appertains according to the laws and customs of England, and the customs of Durham, saving always to the same bishop of Durham the amerciaments, and other things to him from thence belonging. We further command you by the tenor of these presents, the sheriff of the county aforesaid, that at certain days and places, which you or any two or more of you shall make known to him, as well those assizes, juries, certificates, and attainders, as the aforesaid pleas and complaint, together with the original writs and all other matters relating thereto he cause to be brought before you or any two or more of you. In witness, &c. Witness, &c.

Commission
of Assizes
for Bristol.
(u)

George, &c. To our beloved and faithful A. B. esquire, mayor of our city of Bristol, Sir C. D. knight, chief baron of our court of exchequer, and E. S. esquire, one of the barons of our said court of exchequer, Greeting, know ye, that we have constituted you together with those whom we have associated to you our justices, to take all the assizes, juries, and certificates, before whatsoever justices arraigned, as well by divers writs of the lady Anne First of England, &c. and afterwards of Great Britain, &c. late queen, and also of divers writs of the lord George the First, and of lord George the Second, late kings of Great Britain, &c. as by divers of our

(u) This form differs from the usual form of Commission of Assize ante 136. The insertion of one or both of the Judges who go the Western Circuit in these writs is governed by the judge's Fiat. The Commission is dated the first day of Term, the same as the Circuit Commissions.

writs* in our county of the city of Bristol. And therefore we command you, that at certain days and places, which you shall appoint for this purpose, you take those assizes, juries, and certificates, doing therein what to justice does appertain, according to the laws and customs of England, saving to us the amerciements, and other things to us from thence accruing. For we have commanded our sheriffs of our county of the city aforesaid, that at certain days and places, which you shall make known to them, they cause those assizes, juries, and certificates, together with the original writs, and all things relating to them, to come before you. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, &c. [* 150]

George, &c. To our well-beloved and faithful G. H. esquire, J. K. and L. M. gentlemen, Greeting, (y) know ye, that whereas we have constituted our beloved and faithful A. B. esquire, mayor of our city of Bristol, Sir C. D. knight, chief baron of our court of exchequer, and E. F. esquire, one of the barons of our said court of exchequer, (z) our justices, to take all the assizes, juries and certificates before whatsoever justices arraigned, as well by divers writs of the lady Anne, First of England, &c. and afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the First, and of lord George the Second, late kings of Great Britain, &c. as by divers of our own writs, in our county of the city of Bristol, we have associated you to the said mayor, Sir C. D. and E. F. to take all the aforesaid assizes, juries, and certificates for this time. And therefore, we command you, that to the taking the assizes, juries, and certificates together with the aforesaid mayor, Sir C. D. and E. F. you associate yourselves, doing therein what to justice does appertain, according to the laws and customs of England, saving to us the amerciements and other things to us therefrom accruing, for we have commanded the same mayor, Sir C. D. and E. F. that they admit you for this purpose as associates in form aforesaid. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, &c. Commission of Association for Bristol (x)

George, &c. To our well-beloved and faithful A. B. esquire, mayor of our city of Bristol, Sir C. D. knight, chief baron of our court of exchequer, and E. F. esquire, one of the barons of our said court of exchequer, Greeting, whereas we have constituted you, our justices, to take all the assizes, juries, and certificates* before whatsoever justices arraigned, as well by divers writs of the lady Anne, First of England, &c. and Writ of Association for Bristol (a) [* 151]

(x) This differs from the usual form ante 137.

(z) The Judges on the Western Circuit.

(y) This Commission is directed to the Associates only.

(a) This differs from the usual form ante 138.

afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the First, and of lord George the Second, late kings of Great Britain, &c. as by divers of our own writs in our county of the city of Bristol, and have associated our beloved and faithful G. H. esquire, J. K. and L. M. gentlemen, to you the aforesaid mayor, Sir C. D. and E. F. to take all the aforesaid assizes, juries, and certificates, together with you for this time. We command you that the same G. H. J. K. and L. M. to the taking of the said assizes, juries, and certificates, together with you, to this end you admit into your society in manner aforesaid. For we have commanded the same G. H. J. K. and L. M. that to the taking the assizes, juries, and certificates aforesaid, together with you they associate themselves in form aforesaid. Witness ourself at Westminster, &c. Yorke.

Writ of Si
non omnes
for Bristol.
(b)

George, &c. To our beloved and faithful A. B. esquire, mayor of our city of Bristol, Sir C. D. knight, chief baron of our court of exchequer, E. F. esquire, one of the barons of our said court of exchequer, G. H. esquire, J. K. and L. M. gentlemen, Greeting, whereas we have constituted you, the aforesaid mayor, Sir C. D. and E. F. our justices, to take all the assizes, juries, and certificates, before whatsoever justices arraigned, as well as by divers writs of the lady Anne First of England, &c. and afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the First, and lord George the Second, late kings of Great Britain, &c. as by divers of our own writs in our own county of the city of Bristol. And whereas we have associated you the aforesaid G. H., J. K. and L. M. to you the aforesaid mayor, Sir C. D., E. F. to take all the assizes, juries and certificates aforesaid, together with you for this time. We command you, that if you all cannot conveniently be present at the taking the assizes, juries, and certificates aforesaid, then two of you who shall happen to be present, of whom one of you, the aforesaid mayor, Sir C. D. and E. F. we will shall be one, proceed to the taking the assizes, juries, and certificates aforesaid.

Witness ourself at Westminster, &c.

Yorke.

To our beloved and faithful A. B. esquire, mayor of our city of Bristol, Sir C. D. knight, chief baron of our court of exchequer, E. F. esquire, one of the barons of our said court of exchequer, G. H. esquire, J. K. and L. M. gentlemen, a writ of Si non omnes.

Yorke.

[* 152]
Special Com-
mission, on
33 Hen. VIII.

George* the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, To our well beloved and faithful, &c. [*directed to same commis-*

(b) This differs from the usual form ante 139.

sioners as are named in the Old Bailey commission ante 142,] c. 23. for try-
greeting, ing Lt. Col.

Whereas by a certain act of parliament of Henry the eighth, Wall, for
late king of England, holden at Westminster, in the thirty- Murder be-
third year of his reign, it was, and is enacted, by the autho- yond seas.

Recital of
Statutes.
rity of the said parliament, that if any person or persons
being examined before the king's council, or three of them,

upon any manner of treasons, misprisions of treasons, or
murders, do confess any such offences, or that the said
council, or three of them, upon such examination, shall think
any person so examined to be vehemently suspected of any
treason, misprisions of treasons, or murder, that then in
every such case, by the king's commandment, his majesty's
commission of oyer and terminer, under his highness's great
seal, shall be made by the chancellor of England, to such
persons, and into such shires or places as shall be named
and appointed by the king's highness, for the speedy trial,
conviction, or delivery of such offenders; which commis-
sioners shall have power and authority to enquire, hear, and
determine, all such treasons, misprisions of treasons, and
murders, within the shires and places limited by their com-
mission, by such good and lawful persons as shall be re-
turned before them, by the sheriff, or his minister, or any
other having power to return writs and process for that pur-
pose, in whatsoever other shire or place within the king's
dominions or without, such offences of treasons, misprisions
of treasons, or murders so examined, were done or commit-
ted, as in the said act of parliament is more fully contained.

And whereas lieutenant colonel Joseph Wall was charged
and accused of the several murders of Benjamin Armstrong,
Thomas Upton, and George Patterson, done and committed
at Goree, in Africa, in parts beyond the seas without Eng-
land, (d) and was examined before our well beloved and
faithful counsellors, John, lord Eldon, our chancellor of that
part of our united kingdom of Great Britain and Ireland,
called Great Britain, our most dear cousins and counsellors
William Henry, duke of Portland, president of our council;
John, earl of St. Vincent, our well beloved and faithful
counsellor, Thomas, lord Pelham, one of our principal secre-
taries of state, Sylvester, lord Glenbervie, Thomas Steele,
and Charles Yorke, being seven of our council, upon the
several murders aforesaid. And whereas the said John, lord
Eldon,* William Henry, duke of Portland, John, earl of St.
Vincent, Thomas, lord Pelham, Sylvester, lord Glenbervie,
Thomas Steele, and Charles Yorke, being seven of our

[* 153]

(c) This Commission was set- ted. See 4 Bla. C. 305: n. 2. 15
tled by Sir Edward Law, then Ed. see 1 Taunton, 27. 1 East,
Attorney General. Defendant P. C. 361. 369, 370.
was tried, convicted, and execu- (d) Ante 1 vol. 151.

council, as aforesaid, did examine the said Joseph Wall, and upon such examination of the said Joseph Wall, did vehemently suspect the said Joseph Wall to be guilty of the several murders aforesaid, and did think him the said Joseph Wall to be vehemently suspected thereof, and have certified to us in our council their suspicion aforesaid. Now, know ye therefore, that we have assigned you, or any two or more of you, our justices, to enquire more fully the truth, by the oaths of good and lawful men of our city of London aforesaid, and by other ways, methods, and means, by which ye shall or may better know, (as well within liberties as without) of the several murders aforesaid, by the said Joseph Wall without England committed and perpetrated, as aforesaid, and to hear and determine the said several murders for this time, according to the form of the statute in such case made and provided. And therefore we command you, at certain days and places, which you, or any two or more of you, shall appoint for this purpose, you do diligently make inquisition upon the premises, and the premises aforesaid hear and determine, and them do and fulfil in form aforesaid, doing therein what to justice appertains, according to the laws and customs of England, saving to us the amerciements and other things to us thereupon belonging; we also command our sheriffs of our city of London aforesaid, that at certain days and places, which you, or any two or more of you, shall make known to them, they cause to come before you, or any two or more of you, so many good and lawful men of the city aforesaid, (as well within liberties as without) by whom the truth of the premises may be better known and enquired into. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the thirtieth day of September, in the forty-second year of our reign.

Bathurst and Bathurst.

The like on
33 Hen. VIII.
c. 23. for try-
ing Sawyer
for murder
of Harriet
Gaskett at
Lisbon. (e)

George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, To, &c. [*the same commissioners as in the Old Bailey commission ante 142, and the same as in the last to the description of the particular offence, as follows :*]

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And whereas William Sawyer was charged and accused of the murder of Harriet Gaskett, done and committed at Lisbon, in the kingdom of Portugal, in parts beyond the sea without England, was examined before the said Dudley, earl of Harrowby, Henry, viscount* Sidmouth, Sir William Grant, Sir Alexander Thompson, and our well beloved and faithful counsellor, John Highley Addington, being five of our council, upon the charge and accusation of murder as

(e) This was settled by Sir S. and executed. As to these Com-
Shepherd, then Solicitor-general. missions, see ante 1 vol. 149.
Defendant was tried, convicted,

aforesaid. And whereas the said Dudley, earl of Harrowby, Henry, viscount Sidmouth, Sir William Grant, Sir Alexander Thompson, and John Highley Addington, being five of our council, as aforesaid, did examine the said William Sawyer, and upon such examination of the said William Sawyer did vehemently suspect the said William Sawyer to be guilty of the murder aforesaid, and did think him, the said William Sawyer, to be vehemently suspected thereof, and have certified to us in council their suspicion aforesaid. Now, know ye therefore, that we have assigned you, and any two or more of you, our justices, to enquire more fully the truth, by the oaths of good and lawful men of our city of London, and by other ways, methods, and means, by which ye shall or may better know, (as well within liberties as without) of the murder aforesaid, by the said William Sawyer, without England committed and perpetrated, as aforesaid; and to hear and determine the said murder for this time, according to the form of the statute in this case made and provided. And therefore we command you, that at certain days and places which you, or any two or more of you, shall appoint for this purpose, you do diligently make inquisition upon the premises, and the premises aforesaid hear and determine, and them do and fulfil in form aforesaid, doing therein what to justice appertains, according to the laws and customs of England, saving to us the amerciements and other things to us therefrom belonging. We also command our sheriffs of our city of London aforesaid, that at certain days and places which you, or any two or more of you, shall make known to them, they cause to come before you, or any two or more of you, so many and such good and lawful men of the city aforesaid, (as well within liberties as without) by whom the truth of the premises may be better known and inquired into. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the twenty-seventh day of December, in the fifty-fifth year of our reign.

Bathurst and Bathurst.

George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, To our beloved and faithful, &c. [*directed to the same commissioners as are named in the Old Bailey commission ante 142.*] greeting.

Whereas, &c. [*recites enactment in 33 Henry VIII. c. 23. s. 1. as in precedent ante 152, and then recites, 43 George III. c. 113. s. 6. as follows:*] and whereas, by another act of parliament passed in the forty-third year of our reign, it was, and is enacted, that from thenceforth, all and singular the powers and authorities, in the said hereinbefore recited act contained,

Special Commission, on 33 Hen. VIII. c. 23. and 43 Geo. III. c. 113. s. 6. for trial of De Pardo for feloniously slaying William Burne, near Canton in China. (f) [* 155]

(f) The last Act extends the of accessaries before the fact and first-mentioned Statute to cases manslaughter.

respecting the offence of murder, and the examination of any person or persons, upon any murders, by the king's council, or three of them, and the making or issuing of commissions of Oyer and Terminer, for the trial, conviction, or delivery of offenders, and the enquiring, hearing and determining of all such murders in manner therein mentioned, and all other the clauses, provisoes, conditions, and declarations, concerning the offence of murder, and the enquiring, hearing, and determining thereof, and the trial, conviction, or delivery of such offenders therein, as in the same act are mentioned, shall be, and the same are hereby extended to the offence of procuring, directing, counselling, commanding or otherwise becoming an accessory or accessaries, before the fact to any murder or murders, and also to the offence of manslaughter, in like manner as if those offences had been expressly mentioned in the said recited act. And whereas Antonio Depardo, (otherwise called Antonio Depino) a Spaniard, was charged and accused of the murder of a seaman of the name of William Burne, done and committed near Canton, in China, in parts beyond the seas without England, and was examined before the said John Jefferies, earl Camden, our most dear cousins and counsellors, James, duke of Montrose, Henry, earl Bathurst, Richard, earl of Clancarty, the said Robert Banks, lord Hawkesbury, our well beloved and faithful counsellor, John Charles Villiers, the said William Grant, and our well-beloved and faithful Sir Edward Nepean, baronet, being eight of our council, upon the charge and accusation aforesaid. And whereas the said John Jeffries, earl Camden, James, duke of Montrose, Henry, earl Bathurst, Richard, earl of Clancarty, Robert Banks, lord Hawkesbury, John Charles Villiers, Sir William Grant, and Sir Edward Nepean, did examine the said Antonio Depardo, (otherwise called Antonio Depino) and upon such examination of the said Antonio Depardo, (otherwise called Antonio Depino) did vehemently suspect the said Antonio Depardo, (otherwise called Antonio Depino) to be guilty of having feloniously slain the said William Burne, near Canton, in China, and did think him the said Antonio Depardo, (otherwise called Antonio Depino) to be vehemently suspected thereof, and have certified to us in our council their suspicion aforesaid. Now, know ye therefore, that we have assigned you, and any two or more of you, our justices to enquire more fully the truth, by the oath of good and lawful men of our city of London aforesaid, and by other ways, methods, and means, by which ye shall* or may better know (as well within liberties as without) of the manslaughter and felony aforesaid, by the said Antonio Depardo, (otherwise called Antonio Depino) without England committed and perpetrated as aforesaid, and to hear and determine the said manslaughter and felony for this time, according to the form of the statutes

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in that case made and provided. And therefore we command you at certain days and places, which you, or any two or more of you, shall appoint for this purpose, you do diligently make inquisition upon the premises, and the premises aforesaid hear and determine, and them do and fulfil in form aforesaid, doing therein what to justice appertains, according to the laws and customs of England, saving to us the amer- ciements and other things to us thereupon belonging; we also command our sheriffs of our city of London aforesaid, that at certain days and places which you, or any two or more of you, shall make known to them, they cause to come before you, or any two or more of you, so many and such good and lawful men of the city aforesaid, (as well within liberties as without) by whom the truth of the premises may be better known and enquired into. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the fourteenth day of September, in the forty-seventh year of our reign.

Bathurst and Bathurst. Special com-
mission on
25 Hen. VIII.
c. 2. for try-
ing persons
guilty of
high treason
in parts out
of the realm.

George the third, by the grace of God, of the united king-
dom of Great Britain and Ireland, king, defender of the faith,
to our most dear cousin and counsellor George earl of Onslow,
our well beloved and faithful counsellor Sir Archibald Macdonald,
knight, chief baron of our court of exchequer,
our well beloved and faithful Sir Simon Le Blanc, knight,
one of the justices assigned to hold pleas before us, Sir Alan
Chambre, knight, one of the justices of our court of common
pleas, Samuel Shepherd, one of our serjeants at law, Wil-
liam Draper Best, one other of our serjeants at law, Charles
Runnington, Arthur Onslow, serjeants at law, John Silves-
ter, Jerome William Knapp, esquires, Thomas George
Knapp, Henry Hughes, and John Stafford, gentlemen, greet-
ing: Whereas by a certain act of Parliament of Henry the
eighth, late king of England, holden at Westminster in the
thirty-fifth year of his reign, it was and is enacted by the au-
thority of the said Parliament, that all manner of offences
being already made or thereafter to be made or declared
by any the laws and statutes of the realm of England, to be
treasons, misprisions of treasons, or concealments of trea-

[* 157]

(g) This commission was set-
tled by the lord chancellor, and
Sir V. Gibbs, attorney general.
It was prepared for the express
purpose of trying several offen-
ders taken in the treasonable act
of adhering to the king's enemies
on the capture of the isle of
France. There was no gaol de-
livery in this case as the statute
says his majesty's commission in

the singular number; and, there-
fore, the attorney general did not
think a commission of gaol de-
livery necessary. It is not neces-
sary that the king should sign
this commission, it suffices if he
sign the warrant for issuing the
commission, 3 Inst. 11. Hawk. b.
2. c. 25, s. 51. Bac. Ab. Indict-
ment F. See ante 1 vol. 149,

sons, and done, perpetrated, or committed, or thereafter to be done, perpetrated, or committed by any person or persons out of the realm of England, should be from thenceforth enquired of, heard and determined before the king's justices of his bench for pleas to be holden before himself by good and lawful men of the same shire where the said bench should sit and be kept, or else before such commissioners and in such shire of the realm as should be assigned by the king's majesty's commission, and by good and lawful men of the same shire in like manner and form to all intents and purposes as if such treasons, misprisions of treasons, or concealments of treasons, had been done, perpetrated, and committed within the same shire where they shall be so inquired of, heard and determined as aforesaid. Now know ye that we have assigned you and any two or more of you, of whom one of you the said Sir Archibald Macdonald, Sir Simon Le Blanc, Sir Alan Chambre, William Draper Best, Charles Runnington, and Arthur Onslow, we will shall be one, our justices and commissioners to enquire more fully the truth in our county of Surrey by the oaths of good and lawful men of the same county, and by other ways, methods, and means by which ye shall or may better know (as well within liberties as without) of all treasons, misprisions of treasons, or concealments of treasons done, perpetrated, or committed by any person or persons out of the realm of England, and to hear and determine the said treasons, misprisions of treasons, or concealments of treasons for this time, according to the form of the statute in this case made and provided. And therefore we command you that at certain days and places which you or any two or more of you, of whom one of you the said Sir Archibald Macdonald, Sir Simon Le Blanc, Sir Alan Chambre, Samuel Shepherd, William Draper Best, Charles Runnington, and Arthur Onslow, shall be one, shall appoint for this purpose, you do diligently make inquisition upon the premises, and the premises aforesaid hear and determine, and them do and fulfil in form aforesaid, doing therein what to justice appertains according to the laws and customs of England, saving to us the amerciements and other things to us thereupon belonging: we do also command all and every our officers, ministers, and subjects by virtue of these presents that they attend, advise, and obey and assist you in the execution of the premises in all things as it behoves them. And we do also command by these presents our sheriff of our county of Surrey aforesaid, that at certain days and places which you or any two or more of you, of whom one of you the said Sir Archibald Macdonald, Sir Simon Le Blanc, Sir Alan Chambre,* Samuel Shepherd, William Draper Best, Charles Runnington, and Arthur Onslow, we will shall be one, shall make known to him, he cause to come before you or any two or more of you, of

[* 158]

whom one of you, the said Sir Archibald Macdonald, Sir Simon Le Blanc, Sir Alan Chambre, Samuel Shepherd, William Draper Best, Charles Runnington, and Arthur Onslow, we will shall be one, so many and such good and lawful men of the county aforesaid (as well within liberties as without) by whom the truth of the premises may be better known and enquired into. In witness whereof, we have caused these our letters to be made patent, witness ourself at Westminster the twenty-eighth day of December in the fifty-second year of our reign. Bathurst and Bathurst.

George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith. To our most dear cousin and counsellor, George earl of Onslow, our well beloved and faithful counsellor Edward, lord Ellenborough, our chief justice assigned to hold pleas before us, our beloved and faithful Sir Alexander Thomson, knight, one of the barons of our court of Exchequer; Sir Simon Le Blanc, knight, one of the justices assigned to hold pleas before us, Sir Alan Chambre, knight, one of the justices of our court of Common Pleas, William Adam, one of our council, learned in the law, Charles Runnington, Sir John William Rose, knight, Arthur Palmer, John Bayley, Arthur Onslow, sergeants at law, Jerome William Knapp, esq. Thomas George Knapp, and John Stafford, Gentlemen. Greeting, know ye, that we have assigned you, and any two, or more of you, of whom one of you the aforesaid lord Ellenborough, Sir Alexander Thomson, Sir Simon Le Blanc, Sir Alan Chambre, William Adam, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley, and Arthur Onslow, we will shall be one, our justices and commissioners, to enquire, by the oath of good and lawful men, of our county of Surrey, of all high-treasons, and misprisions of high-treasons, (other than such as relate to our coin) and of any offence or offences against an Act made, and passed in the thirty-sixth year of our reign, entituled, "An Act for the safety and preservation of his Majesty's person and government, against treasonable and seditious practices and attempts." (i) And an act made and passed in the thirty-seventh year of our reign, entituled "An act for the better prevention and punishment of attempts to seduce persons serving in his majesty's forces by sea or land, from their duty and allegiance to his majesty, or to incite them to mutiny or disobedience." (k) And* of any offence or offences, against another act made and passed in the said thirty-seventh year of our reign, entituled "An act for more effectually preventing the administering, or taking of unlawful

Special Commission of Oyer and Terminer, for trial of certain High Treasons in Surrey, under which Col. Despard was tried and executed. (h)

[* 159]

(h) 4 Bla. Com. 270. ante 1 sion.

vol. 149. The particular offender

was not named in this Commis-

Crim. Law.

(i) 86 Geo. 3. c. 7.

(k) 37 Geo. 3. c. 70.

VOL. IV.

U.

oaths," (l) within our county aforesaid (as well within liberties as without) by whomsoever, and in what manner soever done, committed or perpetrated, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every, or any of them, in any manner whatsoever. And the said treasons, and misprisions of treason and offences against the said acts, made and passed in the thirty-sixth and thirty-seventh years of our reign according to the laws and customs of England, for this time to hear and determine. And therefore we command you,* that at a certain day and place, which you, or any two or more of you, of whom one of you, the said lord Ellenborough, Sir Alexander Thompson, Sir Simon Le Blanc, Sir Alan Chambre, William Adam, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley and Arthur Onslow, we will shall be one, shall for this purpose appoint, you make diligent enquiries into the premises, and that ye do hear and determine all and singular the premises aforesaid, and to cause to be done therein, what to justice appertains according to the laws and customs of England, saving to us the amerciements and other things from thence to us accruing; we do also command all and every our officers, ministers and subjects, by virtue of these presents, that they attend, advise, aid, obey and assist you in the execution of the premises in in all things as behoves them. And we do also command by these presents, our sheriff of our said county of Surrey, that at such certain day and place, as you or any two or more of you, of whom one of you the aforesaid lord Ellenborough, Sir Alexander Thompson, Sir Simon Le Blanc, Sir Alan Chambre, William Adam, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley and Arthur Onslow, we will shall be one, shall make known to him, he do cause to come before you, or any two or more of you, of whom one of you the aforesaid lord Ellenborough, Sir Alexander Thompson, Sir Simon Le Blanc, Sir Alan Chambre, William Adam, Charles Runnington, Sir John William Rose, Arthur Palmer, John Bayley and Arthur Onslow, we will shall be one, such and so many good and lawful men of our said county, (as well within liberties as without) by whom the truth of the matter in the premises may be better known and enquired into. In witness whereof, we have caused these our letters to be made patent, witness ourselves at Westminster, &c. Bathurst and Bathurst.

The like under which O'Coigley, &c. were tried, A. D. 1798. (m)
[* 160]

[Same* as the last unto the following words :] To enquire by the oath of good and lawful men of our county of Kent or Surrey, of all high-treasons, and misprisions of high-treason, (other than such as relate to our coin) within our county

(l) 37 Geo. 3. c. 123.

(m) The particular offenders

are not named in this Commission.

aforesaid, as well within liberties as without, by whomsoever, and in what manner soever done, committed or perpetrated, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every or any of them, in any manner whatsoever. And the said treasons and misprisions of treasons according to the laws and customs of England, for this time to hear and determine. And therefore we command you, [*same as the last, to the end from the asterisk 159.*]

[*Same as ante 158,9 until the following words :*] To enquire by the oath of good and lawful men of our county of Norfolk, of all murders, manslaughters and felonies, and the crimes and offences of persons, accessaries to the same, and each of them within the county aforesaid, (as well within liberties as without) by whomsoever, and in what manner soever done, committed or perpetrated, and when, how, and after what manner, and of all other articles and circumstances concerning the premises and every or any of them in any manner whatsoever, and the said murders, manslaughters and felonies, and other the crimes and offences aforesaid, according to the laws and customs of England, for this time to hear and determine. And therefore we command you, &c. [*Same as ante 159 to the end from the asterisk.*]

Special Commission of Oyer and Terminer, for the trial of the rioters in Norfolk, 1766.

George the Third. by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, To our most dearly beloved sons, and faithful counsellors, Frederick, duke of York, &c. and William Henry, duke of Clarence, and of our dearly beloved brother, William Henry, duke of Gloucester, To our right trusty and well-beloved the Lord high Admiral of Great Britain and Ireland, and so forth, for the time being, To our trusty and well-beloved his deputy for the time being, To our right trusty and right well-beloved cousin and counsellor, George John, earl Spencer, To our right trusty and well-beloved Charles George, lord Arden, of the kingdom of Ireland, To our trusty and well-beloved Sir Philip Stephens, baronet, James Gambier, William Young, Thomas Wallace, and Robert Mann, esquires, respectively assigned and deputed our commissioners for executing the office of lord high* admiral of Great Britain and Ireland, &c. and to our commissioners for executing the said office for the time being, and to every of them, To our right trusty and well-beloved counsellor, Sir William Scott, knight, doctor of laws, and in our high court of admiralty of England, lieutenant commissary, judge, and president, and to the judge and president of our said court for the time being, To our right trusty and well-beloved counsellor Alexander, lord Lough-

Commission of Oyer and Terminer for the Admiralty of England. (n)

[* 161]

(n) See ante 1 vol. 151. This commission was issued 12 Nov. 1799, after the passing the 39 Geo. c. 37. and before the 43 Geo. III. c. 113. A similar commission is only issued once in several years, as it is prospective in its operation.

borough, our chancellor of Great Britain, and to our chancellor of Great Britain for the time being, and to our commissioners for executing the office of chancellor of Great Britain for the time being, and to every of them, To our right trusty and right well-beloved cousins and counsellors, John earl of Chatham, president of our council, and the president of our council for the time being, and John, earl of Westmoreland, keeper of our privy seal, and the keeper of our privy seal for the time being, To our right trusty and right well-beloved cousin and counsellor, George, earl of Leices:er, steward of our household, To our right trusty and entirely beloved cousin and counsellor, James, marquis of Salisbury, chamberlain of our household, To our right trusty and right well-beloved cousins and counsellors, Philip earl of Chesterfield, and Charles, earl of Liverpool, To our right trusty and right entirely beloved cousin and counsellor, William Henry Cavendish, duke of Portland, one of our principal secretaries of state, To our right trusty and well-beloved counsellor, William Wyndham, Baron Grenville, one other of our principal secretaries of state, To our right trusty and well-beloved counsellor, Henry Dundas, one other of our principal secretaries of state, and also treasurer, of our navy, and to our principal secretaries of state, and treasurer of our navy, respectively for the time being, To our right trusty and well-beloved counsellor, William Pitt, chancellor and under treasurer of our exchequer, and also our lord Warden of the cinque ports, and the chancellor and under treasurer of our exchequer, and our lord Warden of the cinque ports, respectively for the time being, To our right trusty and well-beloved counsellors, Lloyd, lord Kenyon, our chief justice assigned to hold pleas before us, and the chief justice assigned to hold pleas before us for the time being, and John, Baron Eldon, chief justice of our court of common pleas, and the Chief Justice of our said court for the time being; To our right trusty and well-beloved counsellor Henry Addington; To our right trusty and well-beloved counsellor sir Richard Pepper Arden, knight, master of the rolls of our court of chancery, and the master of the rolls of our said court for the time being; To our right trusty and well-beloved counsellor sir Archibald Macdonald, knight, chief baron of our court of exchequer, and the chief baron of our said* court for the time being;

[* 162] To our trusty and well-beloved sir Beaumont Hotham, knight, one of the barons of our said court of exchequer; sir Francis Buller, baronet, one of the justices of our court of common pleas; John Heath esquire, one other of the justices of our said court of common pleas; sir Nash Grose, knight, one other of the justices assigned to hold pleas before us; sir Alexander Thomson, knight, one other of the barons of our said court of exchequer; sir Giles Rooke, knight, one other of the justices of our court of common pleas; sir Soul-

den Lawrence, knight, one other of the justices assigned to hold pleas before us; sir Simon Le Blanc, knight, one other of the justices assigned to hold pleas before us; and sir Alan Chambre, knight, one other of the barons of our said court of exchequer, and the respective justices assigned to hold pleas before us; and the justices of our said court of common pleas, and the barons of our said court of exchequer, for the time being, To our trusty and well-beloved John Thomas Townshend; John Smyth; our right trusty and well-beloved counsellor Silvester Douglas; and our trusty and well-beloved Charles Small Pybus, esquires, four of the commissioners for executing the office of treasurer of our exchequer; and the commissioners for executing the office of treasurer of our exchequer for the time being, and every of them. To our right trusty and well-beloved counsellor sir William Wynne, knight, doctor of laws, and official principal of the arches court of Canterbury, and master keeper or commissary of the prerogative court of Canterbury; Our trusty and well-beloved sir John Nicholl, knight, doctor of laws; our advocate-general sir John Mitford, knight, our attorney-general; sir William Grant, knight, our solicitor-general; William Battine, doctor of laws, advocate-general in our high court of admiralty of England, and our advocate-general, attorney-general, solicitor-general, and advocate-general in our high court of admiralty of England for the time being; Spencer Perceval, esquire; Even Nepan, esquire, first secretary of our admiralty; William Marsden, esquire, second secretary of our admiralty; sir Andrew Snape Hamond, baronet, comptroller of our navy; Charles Hope, esquire, deputy-comptroller of our navy; sir John Henslow, knight, and sir William Rule, knight, joint surveyors of our navy, and the comptroller, deputy-comptroller, and surveyors of our navy for the time being and every of them. George Marsh, George Rogers, and William Palmer, esquires; sir William Bellingham, baronet, Harry Harmood, and Samuel Gambier, esquires, commissioners of our navy, and the commissioners of our navy for the time being, To our right trusty and well-beloved counsellors Dudley Ryder, and Thomas Steel; To our right trusty and well-beloved sir Richard Carr Glynn, knight, mayor of our city of London, and the mayor of our said* city of London for the time being. To our right trusty and well-beloved counsellor Thomas Harley: Our trusty and well-beloved sir Watkin Lewes, knight, sir William Plomer, knight, Nathaniel Newnham, John Boydell, Paul le Mesurier, Thomas Skinner, William Curtis and Brook Watson, esquires, aldermen of our said city; sir John William Rose, knight, recorder of our said city, and the recorder of our said city for the time being. William Newman, George Mackenzie Macauley, and Harvey Christian Combe, esquires; sir William Staines, knight, sir John Eamer, knight, sir William Herne, knight, Robert Williams, junior,

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Charles Hammerton, Charles Price, John Perring, Thomas Cadell, Peter Perchard, and William Leighton, esquires, other aldermen of our said city, and the aldermen of our said city for the time being, and every of them, the several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective towns, and ports of Hastings, in our county of Sussex, New Romney, Hythe, Dover, Sandwich, Folkstone, and Deal, in our county of Kent. The mayors, recorders, and justices of the peace, now and for the time being, of our two ancient towns of Rye and Winchelsea respectively in our county of Sussex. The several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective cities of Canterbury, Bristol, Exeter, Durham, York, Carlisle, Norwich, Rochester, and Chester. The several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective towns and boroughs of Harwich, Colchester, Manningtree, and Malden, in our county of Essex. The mayor, recorder, and justices of the peace, now and for the time being, of our town and borough of Portsmouth, in our county of Hants. The several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective towns and boroughs of Weymouth, Corff-Castle, and Poole, in our county of Dorset. The several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective towns and boroughs of Plymouth, Barnstaple, Dartmouth, and Bideford, in our county of Devon. The several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective towns and boroughs of Saltash, Eastlooe, Fowey, Tregony, St. Mawes, Falmouth, Helstone, St. Ives, and St. Michael, in our county of Cornwall. The several and respective mayors, recorders, and justices of the peace, now and for the time being, of our several and respective towns and boroughs of Monmouth, in our county of Monmouth, Cardiff, in our county of Glamorgan, Haverfordwest, in our county of Pembroke, Carmarthen,* in our county of Carmarthen, Cardigan, in our county of Cardigan, Carnavon, in our county of Carnavon, Beaumaris in our county of Anglesea, Denbigh, in our county of Denbigh, and Flint, in our county of Flint, in our principality of Wales. The mayors, recorders, and justices of the peace, now and for the time being, of our towns and boroughs of Liverpool and Lancaster, in our county palatine of Lancaster. The mayor, recorder, and justices of the peace, now and for the time being, of our town and borough of Cockermouth, in our county of Cumberland. The mayor, recorder, and justices of the peace, now and for the time being, of our town of Berwick upon Tweed. The

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mayors, recorders, and justices of the peace, now and for the time being, of our towns and boroughs of Newcastle upon Tyne, and Morpeth, in our county of Northumberland. The mayors, recorders, and justices of the peace now and for the time being, of our towns and boroughs of Scarborough and Heydon, in our county of York. The mayor, recorder, and justices of the peace, now and for the time being, of our town and borough of Kingston upon Hull. The mayors, recorders, and justices of the peace, now and for the time being, of our towns and boroughs of Boston and Great Grimsby, in our county of Lincoln. The mayors, recorders, and justices of the peace, now and for the time being of our towns and boroughs of Lynn Regis, Castle Rising, and Great Yarmouth, in our county of Norfolk. The mayors, recorders, and justices of the peace, now and for the time being, of our towns and boroughs of Dunwich, Alborough, Oxford, and Ipswich, in our county of Suffolk. William Compton, David Stevenson, John Fisher, James Henry Arnold, French Lawrence, Scrope Bernard, Maurice Swabey, Charles Coote, Samuel Pearce Parson, John Sewel, Christopher Robinson, William Territ, and Alexander Croke, doctors of laws, and surrogates of the judge of our said high court of admiralty, and the surrogates of the judge of our said high court of admiralty, for the time being. Sir Stephen Cotterell, knight, William Fawkener, George Rose, Charles Long, John King, William Wickham, George Hammond, George Canning, William Huskisson, Claude Champion Crespigny, William Baldwin, William Pollock, Thomas Bidwell, Alexander Trotter, Richard Alexander Nelson, and Joseph Stewart, esquires, Sir William Addington, knight, Nicholas Bond, Richard Ford Cranley, Thomas Kerby, Henry James Pye, Patrick Colquhoun, Nathaniel Conant, John Scott, Philip Neave, William Blemire, Aaron Graham, Robert Baker, John Floud, William Brodie, & John Nares, esquires, the reverend Henry Reynett, clerk, Daniel Williams, Rice Davis, George Storey, John Staples, Rupert Clark, Gideon Fournier,* Benjamin Robertson, Richard Carpenter Smith, John Harriott, John Bacon, James Robson, John Harrison, John Bedingfield, Charles Wright, Robert Robinson, William Gimber, Thomas Kite, William Gascoigne, William Pearce, George Coombe, John Kingdom, George Hartwell, Charles Derrick, John Hunter, Edward Fulkingham, Osborn Standert, William Tyler, John Willock, Richard Prestwood, and Charles Bicknell, esquires. Whereas by a certain statute made in the parliament of his late majesty Henry the eighth, king of England, begun and holden at Westminster, the eighth day of June, in the twenty-eighth year of his reign, intituled, "For Pirates," it was enacted, amongst other

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Recitals of
Statutes re-
lative to Ad-
miralty Ju-
risdiction.

(o)

things, that all treasons, felonies, robberies, murders, and confederacies, thereafter to be committed in or upon the sea, or in any other haven, river, creek, or place, where the admiral or admirals have, or pretend to have, power, authority, or jurisdiction, should be enquired, tried, heard, determined, and judged, in such shires and places in the realm as should be limited by the king's commission or commissions, to be directed for the same in like form and condition as if any such offence or offences had been committed or done in or upon the land, and that such commissions should be had under the king's great seal, directed to the admiral or admirals, or to his or their lieutenant, deputy and deputies, and to three or four such other substantial persons as should be named or appointed by the lord chancellor of England for the time being, from time to time, and as oft as need should require, to hear and determine such offences, after the common course of the laws of this realm, used for treasons, felonies, murders, robberies, and confederacies of the same, done and committed upon the land within this realm, as by the said statute it more fully is manifested and appears. And further, whereas in the parliament of his late majesty, Henry the fourth after the conquest, king of England, holden in the fourth year of his reign, at Westminster, in the statute (*p*) then and there made, touching the setting up of wears, stakes, and kidels, in the water of Thames, and of other great rivers through the realm. It was (amongst other things) by the authority of the same parliament, willed and granted, that the statutes thereof made should be holden and kept, and put in due execution, joining to the same, that commissions be awarded to certain justices and others, in every county of the realm where need should be, to inquire of all that which is contained in the said statutes, and to punish the offenders of the same statutes by fine, according to their discretion, as in the said statute is more fully contained.

[* 166] Know ye therefore, that we, confiding* very much in your
 The Quorum. fidelity and careful circumspection, have appointed you, or any four of you, of which number our will and pleasure is our lord High-Admiral, or his lieutenant or deputy for the time being, George John, Earl Spencer, Charles George, Lord Arden, Sir Philip Stevens, James Gambier, William Young, Thomas Wallace, and Robert Mann, and our commissioners for executing the office of lord High-Admiral of Great Britain and Ireland, &c. for the time being respectively, Sir William Scott, and the judge or president of our said high court of admiralty of England for the time being, Alexander, lord Loughborough, and our lord high chancellor of Great Britain for the time being, and our commissioners for executing the office of lord high chancellor of Great Bri-

tain for the time being respectively, Lloyd, Lord Kenyon, and our chief justice assigned to hold pleas before us for the time being, John Baron Eldon, and the chief justice of our court of common pleas for the time being, Sir Richard Pepper Arden, and the master of the rolls of our court of chancery for the time being, Sir Archibald Macdonald, and the chief baron of our court of exchequer for the time being, Sir Beaumont Hotham, Sir Francis Buller, John Heath, Sir Nash Grose, Sir Alexander Thompson, Sir Giles Rooke, Sir Soulden Lawrence, Sir Simon Le Blanc, and Sir Alan Chambre, and the justices assigned to hold pleas before us, the justices of our said court of common pleas, and the barons of our said court of exchequer, for the time being respectively, Sir William Wynne, Sir John Nichol, Sir John Mitford, Sir William Grant, William Battine, and our advocate general, attorney general, solicitor general, and advocate general in our high court of admiralty of England for the time being, Spencer Perceval, Even Nepean, and the first secretary of our admiralty for the time being, William Compton, David Stevenson, John Fisher, James Henry Arnold, French Lawrence, Scrope Bernard, Maurice Swabey, Charles Coote, Samuel Pearse Parson, John Sewell, Christopher Robinson, William Territt, and Alexander Croke; and the surrogates of the judge of our said high court of admiralty of England, for the time being respectively, always to be one, our justices to enquire upon the oath of good and lawful men of our city of London, and of our counties of Middlesex, Essex, Surrey, Kent, and Borough of Southwark, in our county of Surrey, and every, or any of them, and by other ways, means and methods, according to your best knowledge and ability, as well within liberties as without, whereby the truth of the matter may be better known and enquired into, concerning all treasons, felonies, robberies, murders and confederacies, done or committed, or hereafter to be done or committed, in or upon the* sea, or in any other haven, river creek, or place, where [* 167] the admiral hath, or the admirals have, or pretend to have, power, authority, or jurisdiction, and also of and concerning other offences, injuries and misdemeanours whatsoever committed and done, or hereafter to be committed and done, against the form of the said recited statutes of the said late kings, Henry the fourth, (q) and Henry the eighth, (r) or against the form of a certain statute made in the parliament of his late majesty, William the third, king of England, holden at Westminster aforesaid, by prorogation, to wit, the sixteenth day of November, in the eleventh year of his reign, intituled, "An act for the more effectual suppression of piracy," (s) explained by the statute made in the parlia-

(q) 4 Hen. IV. c. 11.

(s) 11 and 12 W. & M. c. 7.

(r) 28 Hen VIII. c. 15.

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ment of his majesty George the first, (t) late king of Great Britain, holden at Westminster aforesaid by prorogation, to wit, the twenty-first day of November, in the fourth year of his reign, intituled, "An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportation of felons, and unlawful exporters of wool, and for declaring the law upon some points relating to pirates," or against the form of a certain statute (u) made in the parliament of her late majesty, Anne queen of England, holden at Westminster aforesaid by prorogation, to wit, the twentieth day of October, in the first year of her reign, intituled, "An act for punishing of accessaries to felonies and receivers of stolen goods, and to prevent the wilful burning and destroying of ships," or against the form of a certain statute made in the parliament of the said late queen Anne, holden at Westminster aforesaid by prorogation, to wit, the sixteenth day of February, in the twelfth year of her reign, (x) intituled, "An act for the preserving all such ships and goods thereof, which shall happen to be forced on shore, or stranded upon the coast of this kingdom, or any other of her majesty's dominions," or against the form of a certain statute made in the said parliament of his said late majesty, king George the first, holden at Westminster aforesaid by prorogation, to wit, the twenty-first day of November, in the fourth year of his reign, (y) intituled "An act for enforcing and making perpetual an act of the twelfth year of her late majesty, intituled, "An act for the preserving of all such ships and goods thereof, which shall happen to be forced on shore, or stranded upon the coasts of this kingdom, or any other of her majesty's dominions, and for inflicting the punishment of death on such as shall wilfully burn or destroy ships," explained and amended by the statute made in the parliament of his said late majesty, George the first, king of Great Britain,* holden at Westminster aforesaid by prorogation, to wit, the twelfth day of November, in the eleventh year of his reign, (z) intituled, (amongst other things) "An act to continue several acts therein mentioned, and for explaining and amending a late act for more effectual punishment of such as shall wilfully burn or destroy ships," or against the form of a certain statute, made in the parliament of his said late majesty king George the first, holden at Westminster aforesaid by prorogation, to wit, the nineteenth day of October, in the eighth year of his reign, (a) intituled, "An act for the more effectual suppressing of piracy," or against the form of the statute made in the second year of the reign of his late majesty king George the second, in his parliament,

(t) 4 Geo. I. c. 11.

(u) 1 Anne, s. 2. c. 9.

(x) 12 Anne, s. 2. c. 18.

(y) 4 Geo. I. c. 12.

(z) 11 Geo. I.

(a) 8 Geo. I. c. 24.

begun and holden at Westminster aforesaid, to wit, the twenty-third day of January, in the first year of his reign, (b) intituled, (among other things) "An act to revive the laws therein mentioned, and for making perpetual an act therein mentioned for suppressing of piracy, and touching all other offences, misdemeanours, injuries, and crimes whatsoever done or committed upon the high sea," or against the form of a certain statute made in the parliament holden in the fifth year of the reign of her late majesty, queen Elizabeth, (c) intituled, "An act touching politic constitutions for the maintenance of the navy," or against the form of a certain statute made in the eighteenth year of the reign of his late majesty, king George the second, in his parliament begun and holden at Westminster aforesaid, the first day of December, in the fifteenth year of his reign, intituled, "An act to amend an act made in the eleventh year of the reign of king William the third, intituled, (d) "An act for the more effectual suppressing of piracy," or against the form of a certain statute made in the thirty-third year of our reign, in our parliament begun and holden at Westminster aforesaid, the twenty-fifth day of November, in the thirty-first year of our reign, (e) intituled, "An act for better preventing offences, in obstructing, destroying, or damaging ships, or other vessels, and in obstructing seamen, keel men, coasters, and ship carpenters from pursuing their lawful occupations," and also against the form of a certain statute, (f) made and passed in the thirty-ninth year of our reign, in our parliament begun and holden at Westminster, the ——— day of ——— in the thirty-ninth year of our reign, intituled, "An act for remedying certain defects in the law respecting offences committed upon the high seas." (g) And to hear and determine all the said treasons, and other premises, and to make gaol delivery, according to the laws and customs of our kingdom of Great Britain, and the statutes aforesaid, also* to enquire upon the oath of good and lawful men of the city, counties, and borough aforesaid, as well within liberties as without, of all other crimes and offences whatsoever, and accessaries thereto whomsoever, and howsoever had, done, or committed, or hereafter to be added to be had, done, or committed, upon the high sea, or in any haven, river, creek, or place where the admiral hath, or the admirals have, or pretend to have power, authority, or jurisdiction, and to hear and determine all such crimes and offences according to the laws and customs of this our kingdom of Great Britain, and

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(b) 2 Geo. II.

(c) 5 Eliz. c. 5.

(d) 18 Geo. II. c. 30.

(e) 31 Geo. III.

(f) 39 Geo. III. c. 37.

(g) See also 43 Geo. III. c. 113. 2 Leach, 4 Ed. 947. since issuing this commission.

the statutes aforesaid, or other statutes in that behalf made and provided, as by the laws or statutes of this our kingdom of Great Britain, may or ought to be heard, discussed, or determined by any commissioners or justices by us appointed, or to be appointed. And therefore we command you that at certain times and places which you or four of you (whereof you our aforesaid lord high admiral, or his lieutenant, or deputy for the time being, George John, earl Spencer, Charles George, lord Arden, Sir Philip Stevens, James Gambier, William Young, Thomas Wallace, and Robert Mann, and our commissioners for executing the office of lord high admiral of Great Britain and Ireland, &c. for the time being respectively, Sir William Scott, and the judge or president of our said high court of admiralty of England for the time being, Alexander, lord Loughborough, and our lord high chancellor of Great Britain, for the time being, and our commissioners for executing the office of lord high chancellor for Great Britain, for the time being, respectively, Lloyd, lord Kenyon, and our chief justice assigned to hold pleas before us for the time being, John, Baron Eldon, and the chief justice of our court of common pleas for the time being, Sir Richard Pepper Arden, and the master of the rolls of our court of chancery for the time being, Sir Archibald Macdonald, and the chief baron of our court of exchequer for the time being, Sir Beaumont Hotham, Sir Francis Buller, John Heath, Sir Nash Grose, Sir Alexander Thompson, Sir Giles Rooke, Sir Soulden Lawrence, Sir Simon le Blanc, and Sir Alan Chambre, and the justices assigned to hold pleas before us, the justices of our said court of common pleas, and the barons of our said court of exchequer, for the time being, respectively, Sir William Wynne, Sir John Nicholl, Sir John Mitford, Sir William Grant, William Battine, and our advocate general, attorney general, solicitor general, and our advocate general in our high court of admiralty of England for the time being, Spencer Perceval, Evan Nepean, and the first secretary of our admiralty for the time being, William Compton, David Stevenson, John Fisher, James Henry Arnold, French Lawrence, Scrope Bernard, Maurice Swabey, Charles Coote, Samuel Pearce Parson, John Sewell, Christopher Robinson, William Territt,* and Alexander Croke, and the surrogates of the judge of our said high court of admiralty of England, for the time being, We will always to be one, shall prefix for this purpose, that you diligently make inquiry concerning the premises, and that you hear and determine all and singular the same, and do and perform in manner aforesaid, all things to be done thereupon, as appertains to justice, according to the laws and customs of our kingdom of Great Britain, and the statutes aforesaid, or other statutes in that behalf made and provided. And we do, by these presents, command, and our will and pleasure is, that it be in our

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name firmly and strictly given in charge and command to the Sheriffs of our said city of London, and of Middlesex, Essex, Kent, and Surrey, and to every of them as well within liberties as without. That at certain times and places when, and as often as need shall require, which our lord high admiral, or his lieutenant for the time being, or you, our aforesaid present commissioners for executing the office of lord high admiral aforesaid, and the commissioners for executing the said office for the time being, or you, our aforesaid lieutenant commissary judge and president at this time being, or your deputy in the said high court of admiralty of England, and the lieutenant commissary judge and president of the said court for the time being, shall make known to them or either of them in form aforesaid, they cause to come before you or four of you at the least, whereof our aforesaid lord high admiral or his lieutenant or deputy, &c. [*The names of the quorum are here to be stated as before and then proceed as follows.*] respectively (always to be one) so many and such good and lawful men of their bailiwick, (as well within liberties as without) by whom the truth of the matter concerning the premises may be better known or enquired into. Commanding moreover, all nobles, lords, knights, justices, mayors, sheriffs, bailiffs, stewards, constables, also the keepers of gaols and prisons, and all other officers and ministers, our faithful and liege subjects, whomsoever (as well within liberties as without), that from time to time in the execution of the premises and every of them, they be helping, favouring, and assisting and yielding obedience to you and every of you, in all things as is fitting. In witness whereof, we have caused these our letters to be made patent. Witness ourself, at Westminster, the 12th day of November, in the fortieth year of our reign.

By the King Himself.

J. Nicholl.

Wm. Battine.

May it please your majesty. The foregoing contains a draft of a commission of oyer and terminer, and gaol delivery for the jurisdiction of the admiralty of England, prepared by us in obedience to your majesty's commands.

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CHAPTER* V.

THE FORMS APPLICABLE TO THIS CHAPTER ON INDICTMENTS, WILL BE FOUND IN THE SECOND VOLUME PER TOTUM.

CHAPTER VI.

OF THE GRAND JURY—PRECEPTS, AND PROCEEDINGS THEREON—PROCLAMATIONS AND PROCEEDINGS AT THE ASSIZES AND SESSIONS RELATIVE TO GRAND JURY—EVIDENCE AND WITNESSES BEFORE GRAND JURY—AND FINDING THE BILL, &c.

Oyer and
Terminer
precept to
Sheriff to
summon
Jury by two
Judges ap-
pointed for
Lincoln cir-
cuit. (a)

THE Honourable John Heath, esquire, one of the justices of our lord the king, of the court of Common Pleas, and the Honourable Sir Robert Graham, knight, one of the barons of our said lord the king, of his court of Exchequer, justices of our said lord the king, assigned by letters patent of our said lord the king, under the great seal of the united kingdom of Great Britain and Ireland, to us and others, and to any two of us made to enquire more fully the truth by the oath of good and lawful men, of the county of Lincoln, and by other ways, means, and methods, by which we shall or may better know, (as well within liberties as without) by whom the truth of the matter may be the better known and enquired into, of all treasons, misprisions of treasons, insurrections, rebellions, counterfeitings, clippings, washings, false coinings, and other falsities, of the money of the united kingdom of Great Britain and Ireland, and other king-

(a) This is signed and sealed see commission of Oyer and by the two Judges. As to this Terminer, ante 134. precept, see ante 1 vol. 310. and

doms or dominions whatsoever, and of* all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them, within the county aforesaid, (as well within liberties as without) by whomsoever, and in what manner soever, done, committed, or perpetrated, and by whom, or to whom, and when, how, and after what manner. And of all other articles and circumstances concerning the premises, and every of them, or any of them, in any manner whatsoever. And the said treasons, and other the premises, according to the laws and customs of England, for this time, to hear and determine. To the sheriff of Lincolnshire, greeting, on the behalf of our said lord the king, we command you, that you omit not for any liberty within your bailiwick, but that you cause to come before us, and others our fellow justices aforesaid, or any two or more of us, at the castle of Lincoln, in your county, on Saturday the fifteenth day of July next, twenty-four, as well knights as other good and lawful men of your bailiwick, to do and receive all those things which, on the behalf of our said lord the king, shall be then and there enjoined them. And that you yourself and your under sheriff be then and there in your own persons, together with your bailiffs and other your ministers, to do those things, which to your and their offices appertain in this behalf to be done. And that you have then and there the names of the jurors and this precept. Dated under our hands and seals, at Westminster, this fourteenth day of June, in the fifty-fifth year of the reign of our sovereign lord George the third, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith.

J. Heath. (L. S.)

R. Graham. (L. S.)

The execution of this writ appears in divers pannels hereunto annexed. The answer of Joseph Livesey, esquire, sheriff.

Sheriff's
Return
thereto.

[Then annex pannels, see *Impey Off. Sheriff*, 3d Ed. 256, 7, &c. and post 179, &c.]

The Honourable John Heath, esquire, one of the justices of our lord the king, of his court of Common Pleas, and the Honourable Sir Robert Graham, knight, one of the barons of our said lord the king, of his court of Exchequer, justices of our said lord the king, assigned to take all the assizes, juries, and certificates, before whatsoever justices arraigned,

Gaol Deliver-
ry Precept
by the Judges
appointed
for the
Lincoln
Circuit. (b)

(b) This is signed by the clerk of Assize.

- [* 173] as well by divers writs of the Lady Anne* First of England, &c. and afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the first, and the lord George the second, late kings of Great Britain, &c. as by divers writs of our now lord the king, in the county of Lincoln. To the sheriff of the said county, greeting, on behalf of our said now lord the king, we command you, that you omit not for any liberty in your bailiwick, but that you cause to come before us at the Castle of Lincoln, in your county, on Saturday, the fifteenth day of July next, all writs of assize, juries, and certificates, before whatsoever justices arraigned, as well by divers writs of Lady Anne First of England, &c. and afterwards of Great Britain, &c. late queen, and also by divers writs of the lord George the first, and the lord George the second, late kings of Great Britain, &c. as by divers of our said now lord the king, in your county, together with the pannels, attachments, reattachments, summons, and resummons, and all other minuments whatsoever, any ways concerning those assizes, juries, and certificates. Provided always, that the attachments, reattachments, summons, and resummons thereof, be made fifteen days before the said Saturday. And also that you cause to come before the said John Heath and Sir Robert Graham, justices of our said now lord the king, assigned to deliver his gaol of the county aforesaid of the prisoners therein being at the day and place aforesaid, all the prisoners being in the said gaol, together with their attachments, indictments, and all other minuments any ways concerning those prisoners, and of the venue of every town and place where the felonies were committed, whereof the said prisoners are indicted, appealed, or arrested, (as well within liberties as without,) twenty and four, as well knights as other good and lawful men, of every hundred in the said county, by whom the truth of the matter may be the better known and inquired into, and who have no affinity to those prisoners, together with four selected men of those towns and places, to do those things which, on the behalf of our said now lord the king, shall be then and there enjoined them. Publicly also cause to be proclaimed throughout your whole bailiwick, that all they who will prosecute against those prisoners be then and there to prosecute against them as shall be just. Give notice also to all justices of the peace, mayors, coroners, escheators, stewards, and also to all chief constables and bailiffs of every hundred and liberty within your county, that they be then and there in their own person, with their rolls, records, indictments, and other remembrances, to do those things which to your and their offices in this behalf appertain to be done. And that you yourself and your under sheriff, together with your bailiffs and other your ministers,
- [* 174] be then and there in your own persons, to do* those things

which to your and their office appertain in this behalf to be done. And have you then and there the names of the jurors, justices of the peace, mayors, coroners, escheators, stewards, bailiffs, chief constables, and of all them whom you shall so cause to come, whom, and by whom, you shall so cause them to come. And that you also then and there have this precept. Dated at Westminster, this fourteenth day of June, in the fifty-fifth year of the reign of our sovereign lord George the third, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith.

Lowndes.

The execution of this precept appears in divers pannels to the same precept annexed, and further I have made proclamation through my whole bailiwick, that all they who will prosecute against them for any thing within contained on the part of our lord the king, as for themselves, that they be then and there with their bills in form of law to prosecute; I have also given notice to all justices of the peace, mayors, coroners, escheators, and stewards, and also to all chief constables and bailiffs of every hundred and liberty within my county, that they be then and there in their own persons, with their rolls, records, indictments, and other remembrances, to do those things, and to which their offices in that behalf appertain to be done, as within I am commanded. The answer of

Return to same.

Joseph Livesey, esq. sheriff.

[Then annex pannels, see *Imp. off. sher.* 3d ed. 255, &c. 259, and post 179, &c.]

The Right Honourable Sir John Willes, knight, justice of our lord the king, of his court of Common Bench, Sir Edward Clive, knight, one of the justices of our said lord the king of the same court, justices of our said lord the king aforesaid, to deliver his gaol of the borough of Leicester of the prisoners therein being, To the bailiff of the borough aforesaid, greeting, on behalf of our said lord the king. We command you, that you omit not for any liberty within your bailiwick, but that you cause to come before us at the borough aforesaid, on ——— the ——— day of ———, next ensuing, all the prisoners being in the said gaol, all their attachments, judgments, and all other minuments touching or any ways concerning those prisoners, and of the venue of every parish and place where the felonies were committed, whereof the said prisoners are indicted, appealed, or arrested, (as well within liberties as without) twenty and four good and lawful men of your said bailiwick, by whom the truth of the matter may be better known and inquired into, and who have no affinity to those prisoners, together with four selected men of the said borough, to do those things, which on the behalf of our said lord the king, shall be then and there* en-

Gaol Delivery Precept, for Borough of Leicester.

(c)

[* 175]

(c) From Mr. Nicholl's MS.

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Y

joined them. Publicly, also, cause to be proclaimed throughout your whole bailiwick, that all those that will prosecute against those prisoners be then and there to prosecute against them as shall be just. Give notice also to the mayor and justices of the peace, coroners, escheators, and stewards, within your bailiwick, that they be then and there in their own proper persons, with their rolls, records, indictments, and other remembrances, to do those things which to their offices in that behalf appertain to be done. And that you yourself, together with your under-bailiff and other your ministers, be then and there in your own proper persons, to do those things which to your and their offices appertain to be done in this behalf. And have you then and there the names of the jurors and mayor, justices of the peace, coroners, escheators, and stewards, and of them whom you shall so cause to come before whom, and by whom you shall so cause them to come. And that you also have then and there this precept. Dated at Westminster, the eleventh day of July, in the twenty-sixth year of the reign. Blencowe.

Precept in
County of
Westmore-
land to sum-
mon Jury at
Sessions. (d)

Westmoreland. J. P. and K. P. esquires, justices of our sovereign lord the king, assigned to keep the peace in the county of Westmoreland aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the said county, (and one of us of the quorum) To the sheriff of the same county, greeting, on the behalf of our sovereign lord the king, we command you, that you omit not by reason of any liberty, within your county, but that you enter therein, and that you cause to come before us or other justices assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, on — the — day of —, now next ensuing, at the hour of ten in the forenoon of the same day, at —, in the said county, twenty-four good and lawful men, of the body of the county aforesaid, then and there to inquire, present, do, and perform all and singular such things as, on the behalf of our sovereign lord the king, shall be enjoined them. Also, that you make known to all coroners, keepers of gaols and houses of correction, high constables, and bailiffs of liberties, within the county aforesaid, that they be then and there to do and fulfil those things which, by reason of their offices, shall be to be done. Moreover, that you cause to be proclaimed through the said county, in proper places, the aforesaid sessions of the peace to be held at the day and place aforesaid: and do you be then there to do and execute those things which belong to your office.* And have you

[* 176]

(d) See ante 1 vol. §10, Dalt. Off. Sher. 250, 251, as to the J. c. 185. Lamb. §81. Burn, J. form and proceedings. juries, and sessions, and see Imp.

then there as well the names of the jurors, coroners, keepers of gaols and of houses of correction, high constables and bailiffs aforesaid, as also this precept. Given under our seals, at A. in the county aforesaid, the — day of —, in the — year of the reign of —.

[As to the sheriff's return thereto, and other proceedings, see ante 172 and 174. and Impey's off. sher: 3d ed. 250, 1, 2, and post 179, &c.]

Middlesex. We, William Mainwaring, esquire, and the reverend Sir George Booth, baronet, two of the justices of our sovereign lord the king, assigned to keep the peace in the county of Middlesex, and also to hear and determine divers felonies, trespasses, and other misdeeds committed in the same county, To the sheriff of Middlesex, greeting, on the part of our said lord the king, we command you, that you do not omit for or by reason of any liberty in your bailiwick, (except the liberty of Westminster) (f) but that you cause to come before us, and others our fellow justices of our said lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdeeds committed in the same county, at the New Sessions house of Clerkenwell green, in the said county, on, &c. now next ensuing, at the hour of —, in the forenoon of the same day, twenty-four good and lawful men of the body of your county, to inquire, present, do, and perform, all and singular such things as on the part of our said lord the king shall be enjoined them. Make known also to all the justices of the peace of our said lord the king, in our county aforesaid, that they be there with their rolls, records, and other memorandums, to do those things which in that behalf belong to their offices to be done. And have you then and there the names of the said jurors and this precept. Given under our hands and seals, at the New Sessions house aforesaid, this — day of —, in the — year of the reign of our sovereign lord George the third, king of Great Britain, &c. and in the year of our Lord —.

W. M. (L. S.)

G. B. (L. S.)

Oxfordshire, (to wit.) I. B. esquire, sheriff of the county aforesaid, To the bailiff of the hundred of —, greeting.

Sheriff's
Warrant to
summon the
Assizes, (g)

(e) Cro. C. C. 6 Ed. 29. 8 Ed. 13. Dalt. J. c. 185. s. 6. p. 512. Dick. Sess. 79. Bac. Ab. Juries, A. and B. 2 Hale, 154. Burn, J. Sessions, 301. tit. Jurors. 1 Burr. 11. and ante 1 vol. 310.

(f) The Dean and Chapter of the Collegiate Church of St. Peter, Westminster; the city, bo-

rough, and town of Westminster, in the said county. The reason of this exception is that there is a distinct Commission for Westminster, ante 1 vol. 135, 6.

(g) Ante 1 vol. 310. see form and proceedings Imp. Off. Sher. 3 Ed. 258.

[* 177] By virtue of the precept of Edward Willes, esquire, and Francis Buller, Esq. justices of our said lord the king, assigned to take all the assizes, jurats,* and certificates, &c. I command you that you do not omit, by reason of any liberty within my bailiwick, but that you cause to come before the said justices at Oxford, in the county aforesaid, on the — day of — next coming, all writs of assize, jurats, and certificates, before whatsoever justices to be taken, &c. and also that you cause to come before his majesty's said justices, at the time and place aforesaid, such, and so many honest and lawful men of the hundred aforesaid, whose names are hereunder written, to do those things which, on the part of our said lord the king, shall be then and there enjoined them. I command you also, that you make public proclamation, in and through the whole hundred aforesaid, that all those who will prosecute against any prisoner, in any prison or gaol in the county aforesaid, that they be then and there present to prosecute against them, as shall be just. And also that you give notice to all justices of the peace, chief constables, coroners, stewards, and bailiffs of liberties, within the hundred aforesaid, that they be then and there with their rolls, records, indictments, and other memorandums, to do those things which in this behalf shall belong unto them to be done. And further, by virtue of the several writs of our said lord the king to me directed, I command you that you have before the said justices of our said lord the king, at the time and place aforesaid, the bodies of the several jurors whose names are hereunder written, to serve upon the several juries hereunder mentioned, and that yourself be there in your own person, to attend, do, and perform all those things which belong to your office; and that you have then and there the names of the said justices, chief constables, coroners, stewards, bailiffs of liberties, jurors, &c. Given, &c. and in the thirtieth year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain and Ireland king, defender of the faith, and in the year of our Lord 1799.

Grand jury. Jury between party and party. Crown jury.

N. B. The names are only to be inserted of those, whom each bailiff is to summon.

Sheriff's
warrant to
summon jury
at sessions.
(h)

Oxon, (to wit.) J. P. esq. sheriff of the county aforesaid, to A. B. and C. D. my bailiffs, of the hundred of G. greeting: By virtue of his majesty's writ to me directed, these are in his majesty's name to will and require you, that you forthwith make known, by open proclamation, in every market town, and all other places convenient within your said hundred, that the next general and quarter sessions of the

(h) As to the mode of summoning, see ante 1 vol. 310, and see forms and proceedings Imp. Off. Sher. 3d Ed. 252.

peace, of and for the county aforesaid,* is to be holden and kept at Oxford, in the county aforesaid, on Wednesday, being the — day of — next coming, by eight o'clock in the forenoon of the same day ; and that you give notice to all justices of the peace, coroners, stewards, gaolers, and chief constables of your hundred, that they be then and there present, to do and perform that which to their several offices doth appertain : and that all those that ought to prosecute any prisoner or prisoners, in the gaol of the said county, or bound over then to appear and answer, be then and there present, to prosecute against them according to law ; and also, that you summon and warn the persons whose names are under-written, that they be then and there present to serve on the grand jury, and to enquire, on his majesty's behalf, for the body of the county aforesaid, of all such matters and things as shall be then and there given them in charge, and also that you summon and warn the persons under-written, being able and sufficient freeholders of your hundred, that they be then and there present to serve on the petty-jury, for his majesty's service ; and that you yourself be then and there present to make return hereof. And herein neither you nor them may fail, and at your and their perils. Given under the seal of my office, the — day of — and in the 39th year of the reign of our sovereign lord George the third, by the grace of God of Great Britain and Ireland, king, defender of the faith, and in the year of our lord —.

Grand jury.

A. B.

C. D.

(name them.)

Petty jury.

E. F.

G. H.

[If there are any persons to be called on their recognizances, &c. then if the precept commands the sheriff to summon or distrain, &c. add this :] “ I also command you to summon C. D. of, &c. and to distrain the inhabitants of the hundred of C. so that they be and appear before the justices aforesaid, at the time and place aforesaid, and also that you take E. F. of, &c. J. K. of, &c. so that I may have their bodies before the said justices at the time and places aforesaid, to answer to our said lord the king, of and concerning divers trespasses and other misdemeanours whereof they stand indicted : hereof fail not, as you will answer at your peril. Given under my hand and seal of office,” &c.

By the same sheriff. [* 179]

The* return is on the back of the writ, as ante 172, &c. The panels there alluded to are as follows :
Oxfordshire, (to wit.) A calendar of the names of all the justices of peace of our lord the king, coroners, mayors, bailiffs of liberties, rapes and hundreds, within the county

Process when there are persons to be called on recognizances. (i)

Returns at assizes of names of the justices, jurors, &c. (k)

(i) See form, Imp. Off. Sher. 3d Ed. 253. (k) Imp. Off. Sher. 3d Ed. 256, 7.

of Oxford, summoned to be and appear before his majesty's justices assigned to take the assizes in and for the said county, on Wednesday the — day of —, at Oxford, in the said county, and in the year of our Lord —.

Names of the justices of peace.

Sir A. B. baronet, E. F. esq. &c.

Names of the coroners.

C. H. I. K. L. M. O. P.

Names of the stewards or bailiffs of every liberty or franchise.

A. B. steward of the liberty of E—, C. D. bailiff of the liberty of F—.

Et sic de cæteris.

Names of the bailiffs of the hundred of O.

R. S. bailiff of the hundred of R—, T. V. bailiff of the hundred of C—, and name the other bailiffs.

Then, on a separate piece of paper, put the names of the grand jury until they be sworn, and when they are sworn, ingross them on parchment, and deliver the same to the clerk of the assize, to be annexed to the precept thus:

Grand jury. Oxfordshire, (to wit.) The names of the grand jury to enquire for our sovereign lord the king and the body of the said county. [Here insert their names underneath and the hundred they live in.]

Also, on a separate piece of parchment, ingross the names of the jury who are to try between the king and the prisoners, and at the foot thereof add the several bailiffs' names who gave them notice.

Common jury. Oxfordshire, (to wit.) The names of the jury to try between our sovereign lord the king and the prisoners. [Here insert the names, and at the end of each put the sheriff's name.]

Calendar of prisoners. Oxfordshire, (to wit.) The calendar of all the prisoners being in the gaol of the said county, together with their attachments, indictments, and all other minuments any way concerning the said prisoners.

Panel of jurors of nisi prius. (l)
[* 180] Oxfordshire, (to wit.) The names of the jury, between, &c. (insert the bailiffs that summoned them) to which is added, issues upon* each of them, 40s.; also to make tickets of those names and hundreds, with the jury's addition of trade, being an exact copy of the panel upon strong paper, to put in the jury-box, &c.

The sheriff's return to precept at sessions. (l) The execution of this precept appears in certain panels hereunto annexed. I further certify that I have given notice to all coroners, keepers of gaols and houses of correction, high constables, and bailiffs of liberties within my county, to be and appear at the time and place within mentioned, to do and perform, &c. and have caused to be proclaimed

(l) Imp. Off. Sher. 358. (l) See ante 1 vol. 310, Imp. Off. Sher. 251.

through my county, in proper places, the sessions within mentioned.

The answer of —.

Then, on a piece of parchment, write the names of the jurors to inquire for our lord the king, &c. thus :

The names of the jurors to inquire —

The names of the jurors to try —

Coroners, keepers of gaols, &c.

The sheriff is to provide and make ready a fit and decent place for the justices of the peace to hold their general quarter sessions. And the sheriff is to convey such offenders to the gaol, at the appointment of the justices of the peace. He, or his under-sheriff, ought also to attend the justices, at their general sessions of the peace, to return the precept and to take charge of prisoners, and to serve the court otherwise, as he hath in charge by the mandamus that is mentioned in the commission of the peace; the other, because the sheriff hath also care and charge of the peace, and so is there to object against such persons as shall be committed by him. Dalt. 372. The sheriff, upon receipt of the precept of any two justices, (one to be of the quorum,) is to summon the session of the peace, and to return a grand jury of twenty-four men before them or their fellow justices, at a certain day and place appointed; but such precept ought to bear teste fifteen days before the return, and ought to be forthwith delivered to the sheriff, that he may have sufficient time to proclaim the sessions, and to give notice to all stewards, constables, and bailiffs of hundreds and liberties, coroners, and other officers, to be present, and to do their duties at such day and place, and to proclaim in proper places, throughout his bailiwick, that such sessions will be holden at such day and place, and to attend there himself to do his duty. When the sheriff hath received the precept from the clerk of the peace, he must direct several warrants to the several bailiffs of hundreds, rapes, and liberties, containing in them the substance of the said precept,* to summon them to appear at the sessions, &c. And if the sheriff shall make default of attendance at the sessions, the justices may fine or amerce them, 8 T. R. 615. All bailiffs and other ministers of liberties, ought also to attend, and must execute their process, 27 H. 8. c. 15. The justices out of sessions, as well as from their sessions, may in many cases direct their precepts, or warrants, and other process, to the sheriff, &c. and he shall execute the same. Dalt. J. 373.

Sheriff's
duty as to
sessions.

[* 181]

“ Brecon, (to wit.) Be it remembered that, at the great sessions and gaol delivery of our lord the king, for the said county, holden at Brecon, in the said county, on Saturday

Record of
fine imposed
upon sheriff
for non ap-
pearance.(m)

(m) See Imp. Off. Sher. 3d Ed. 252. 8 T. R. 615.

the 30th day of March, in the 39th year of the reign, &c. before George Hardinge and Abel Moysey, esquires, justices of our said lord the king of the great sessions of the said county, assigned to deliver the gaol of the county aforesaid of the prisoners therein being, and also to hear and determine divers felonies, &c. E. L. Loveden, high sheriff of the said county, is duly and solemnly called to appear and give his attendance at this same sessions, to do and perform those things which to his office do belong and appertain, and as by his majesty's writ in that behalf, to him directed and delivered, he is commanded; and the said E. L. Loveden, high sheriff as aforesaid, not accordingly appearing and attending at this same sessions, in obedience to his majesty's said writ, or otherwise to perform the said duties of his office, but contemptuously making default, therefore it is ordered that the said E. L. Loveden be fined, and he is accordingly by the court here fined and amerced in the sum of 100*l.* to be by him forfeited and paid to the use of our said lord the king, for such his contempt and default aforesaid. And it is further ordered that a levary do issue, under the seal of this court, to the coroners of the said county, or one of them, thereby commanding them, or one of them, to levy the said fine out of the goods and chattels, lands and tenements of the said E. L. Loveden."

Extract of
fine. (u)

" Breconshire, (to wit.) An extract of a fine set and imposed at the great sessions held at Brecon, in and for the said county, on Saturday the 30th day of March, in the year, &c. 1799, before George Hardinge and Abel Moysey, esquires, justices, &c.

" Samuel Price and John Williams, esquires, coroners of the said county.

[* 182]

" E. L. Loveden, esq. high sheriff of the said county, because he came not in his proper person to do and perform those things which* to his office belonged, as by his majesty's writ of summons to him directed and delivered he was required, therefore he is in mercy, and his fine is set at 100*l.*

(Signed) " Wilkes, prothonotary and clerk of the crown."

Proclama-
tion at assi-
zes by crier
at opening
of court to
keep silence,
&c. (o)

The like at
sessions. (p)

Oyez! Oyez! Oyez! My lords the king's justices do strictly charge and command all manner of persons to keep silence while his majesty's commissions (at Lancaster, say, " his majesty's letters patent") of assize and nisi prius, oyer and terminer, and general gaol delivery for this county of

H. are openly read, upon pain of imprisonment.

Oyez! Oyez! Oyez! The king's justices do strictly charge and command all manner of persons to keep silence,

(n) 8 Term Rep. 616. This C. 6. 479.
extract of the fine was returned
with the record.

(p) Ante 1 vol. 312. Dick.
Sess. 106. Williams, J. Sessions.

(o) Ante 1 vol. 313. Cró. C. Burn, J. Sessions.

while the king's commission of the peace for this county of M. is openly read, upon pain of imprisonment.

Then the commission is accordingly read, and the king's proclamation. See Dick. Sess. 106.

After the commissions have been read, the crier says to the Sheriff,—“ Oyez. Sheriff of the county of A. return the several precepts and writs of assize and nisi prius to you directed, returnable here this day, that my lords the king's justices may proceed thereon ;” which the sheriff does accordingly. Crier's demand of sheriff's return of precepts. (q)

Oyez. All justices of the peace for this county of A. answer to your names, and save your fines. [But for Yorkshire, say, east riding, west riding, or north riding.] Clerk of assizes call of nomina ministrorum, or justices of the peace, and other officers (r)

Oyez. All mayors of corporations and boroughs within this county, answer to your names and save your fines.

Oyez. All coroners of our sovereign lord the king, for this county, answer to your names and save your fines.

Oyez. All stewards of leets and liberties within this county, answer to your names and save your fines.

Oyez. All chief constables of hundreds and liberties within this county, answer to your names and save your fines.

Oyez. All bailiffs of hundreds and liberties within this county, answer to your names and save your fines.

Oyez. You good men that are returned to enquire for our sovereign lord the king and the body of this county of A. answer to your names and save your fines. Crier's call of the grand jury. (s)

Then the crier calls them by their names with their additions ; and if any one does not appear upon second calling, he says, “ or you lose one hundred shillings in issue.”

My lord, or sir, [*as the foreman's title or name may be*] you, as foreman of this grand inquest for the body of this county of A shall diligently inquire and true presentment make of all such matters and things as shall be given you in charge : the king's counsel, your fellows' and your own, you shall keep secret : you shall present no one for envy, hatred, or malice ; neither shall you leave any one unrepresented for fear, favour, or affection, gain, reward, or hope thereof ; but you shall present all things truly as they come to your knowledge, according to the best of your understanding : so help you God. [* 183] Oath of foreman of grand jury at assizes. (s)

The same oath your foreman hath taken on his part, you and every of you shall truly observe and keep on your part : so help you God. Oath of the rest of the jury. (t)

(q) Cro. C. C. 6. 479. (s) Ante 1 vol. 313. Cro. C.
(r) See ante 1 vol. 313. Cro. C. 8th Ed. 481.
C. C. 8th Ed. 6, 480. (t) Ante 1 vol. 313. Cro. C.
(s) See ante 1 vol. 313. Cro. C. 8th Ed. 481.
C. C. 8th Ed. 6, 480.
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Oath of the
foreman of
grand jury at
sessions. (u)

You, as foreman on this inquest, shall diligently inquire and true presentment make of all such matters and things as shall be given you in charge. The king's counsel, your fellows', and your own, you shall keep secret: you shall present no man for envy, hatred, or malice; neither shall you leave any man unpresented for fear, favour, or affection, or hope of reward; but you shall present all things truly as they come to your knowledge, according to the best of your understanding: so help you God.

Oath of the
other jury-
men. (w)

The same oath which your foreman hath taken on his part, you and every of you shall well and truly observe and keep on your parts: so help you God.

Then the marshal or crier swears them; and after all are sworn, the crier counts them, and makes this proclamation, viz.

Proclama-
tion at assi-
zes for si-
lence whilst
reading pro-
clamation
against pro-
faneness. (x)

Oyez. My lords the king's justices do strictly charge and command all manner of persons to keep silence whilst his majesty's proclamation against profaneness and immorality be openly read, upon pain of imprisonment, [*which is then read.*]

Proclama-
tion at assi-
zes for si-
lence before
charge given to grand jury. (y)

Oyez. My lords the king's justices do strictly charge and command all manner of persons to keep silence whilst the charge is given to the grand inquest, upon pain of imprisonment.

Proclama-
tion at assi-
zes for justi-
ces, coro-
ners, &c. to
deliver in-
quisitions and recognizances taken by them. (z)

Oyez. All justices of the peace, mayors, coroners, stewards of leets and liberties, and other officers that have taken any inquisition* or recognizance, let them deliver them into court forthwith, that my lords the king's justices may proceed thereon.

Proclama-
tion at assi-
zes for per-
sons under
recognizance
to appear
and prose-
cute. (a)

Oyez. All manner of persons that are bound by recognizance to prefer any bills of indictment against any prisoners in the gaol of this county, or others, let them come forth and prosecute, (or go to the clerk of indictment's lodgings, and get the same forthwith drawn up by him,) that my lords the king's justices may proceed thereon, or they will forfeit their recognizances.

Call of parti-
lar prosecu-
tor to appear,
&c. (b)

A. B. come forth and prosecute and give evidence against C. D. or you forfeit your recognizance.

Calling per-
sons out up-
on bail at
assizes. (c)

A. B. of the parish of —, come forth, save you and your bail, or you forfeit your recognizance.

(u) Dick. Sess. 113, 4. Williams, J. Sessions, ante 1 vol. 312.

(w) Dick. Sess. 114. Williams, J. Sessions, ante 1 vol. 312.

(x) See ante 1 vol. 313, and Cro. C. C. 8th Ed. 480. Dick. Sess. 106, 7.

(y) See ante 1 vol. 314. Cro.

C. C. 8th Ed. 7, 481.

(z) Ante 1 vol. 314. Cro. C. C. 7.

(a) Ante 1 vol. 314. Cro. C. C. 8th Ed. 481.

(b) Ante 1 vol. 314. Cro. C. C. 8th Ed. 481.

(c) Cro. C. C. 8th Ed. 482.

A. B. of —, and C. D. of —, bring forth the body of E. F. whom you have undertaken to appear here this day, or you forfeit your recognizance. Calling of bail to bring forth their principals at assizes. (d)

Essex, (to wit.) George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, to A. B. C. D. E. F. and G. H. greeting, we command you, and every of you, firmly enjoining you, that, laying aside all pretences and excuses whatsoever, you and every of you be and appear, in your proper persons, before our justices appointed and assigned to take the assizes in and for our county of Essex, and also to deliver the gaol of the same county of the prisoners therein being, at Chelmsford, in the said county, on — the — day of —, to testify the truth, and give evidence before the grand inquest, touching a bill of indictment to be preferred against C. D. in case of trespass and assault, (or as the offences may be,) and this you, or any or either of you, are not to omit, under the penalty of one hundred pounds, to be levied upon your and every of your goods and chattels, lands and tenements, if you, or any or either of you, shall fail in the premises. Witness —, at —, the — day of —, in the — year of our reign. Subpœna to witness at assizes.

To Mr. A. W.

By virtue of his majesty's writ of subpœna to you directed, and herewith shewn to you, you are to be and appear, in your proper person, before his majesty's justices assigned to take the assizes in and for the county of Essex, and also to deliver the gaol of the prisoners therein being, at —, in the said county, on — the — day of — next, to testify the truth, and give evidence before the grand inquest, touching a bill of indictment to be preferred against C. D. in a case of felony (or as the case may be); and this you are not to omit upon pain of one hundred pounds. Dated this — day of —, in the year —. A subpœna ticket on a subpœna at assizes. [* 185]

George the third, &c. [as in the common subpœna to the words "to testify the truth, &c." and then proceed as follows:] And also that you, or one of you, do produce and shew forth at the time and place aforesaid, a certain bill of exchange, purporting to bear date on, &c. and to be made and drawn by one — upon and accepted by one —, and whereby the said — requested the said — two months after the date thereof, to pay to him the said — or his order, the sum of — for value received, then and there to testify and show, before the grand inquest, of all and singular those things which you or either of you know, or the said bill of exchange doth import, of and concerning a certain bill of indictment to be preferred, &c. (proceed as in writ ante 184.) Subpœna duces tecum. (e)

(d) Cro. C. C. 8th Ed. 482. (e) Tidd. App. 382. 9 East. 479.

Subpœna
from the ses-
sions, re-
quiring wit-
nesses' at-
tendance
before grand
jury. (f)

George the third, by the grace of God, of the united king-
dom of Great Britain and Ireland, king, defender of the
faith, to A. B. C. D. E. F. and G. H. (g) greeting: we com-
mand you that all and singular business and excuses being
laid aside, you, and every one of you, be, and personally ap-
pear in your own proper persons before our justices assigned
to keep the peace, in and for our county of Monmouth, and
also to hear and determine divers felonies, trespasses, and
other misdemeanours, in the said county committed, at the
general quarter sessions of the peace, to be holden at —
in and for the said county, on Wednesday, the — day of
— at the hour of — in the forenoon of the same day, to
testify the truth, and give evidence before the *grand inquest*
touching a bill of *indictment to be preferred* against O. O. in
a case of trespass and assault; [*or felony, &c. as the case
may be.*] And this you or any or either of you are by no
means to omit, under the penalty upon each of you of one
hundred pounds. Witness — at — aforesaid, the —
day of — in the — year of our reign.

H. M. clerk of the peace.

Subpœna
ticket at ses-
sions. (h)

To Mr. A. B.—By virtue of his majesty's writ of subpœna
to you directed, and herewith shewn unto you, you are per-
sonally to be and appear before his majesty's justices, &c.

[* 186] [*pursuing the form of subpœna, as far as the words in a case of
felony, and then* proceed.*] And this you are not to omit un-
der the penalty of 100*l.* dated, &c.

Oath of wit-
nesses to
give evi-
dence before
a grand jury at assizes. (i)

The evidence you shall give to the grand inquest upon
this bill of indictment against A. B. shall be the truth, the
whole truth, and nothing but the truth, so help you God.

Habeas cor-
pus ad testi-
ficandum.

George, &c. To the sheriff of — greeting. We com-
mand you, that you have the body of A. B. in our prison un-
der your custody, as it is said detained under safe and secure
conduct, (by whatsoever name the said A. B. may be called
in the same) before our justices assigned, &c. at the general
quarter sessions of the peace, to be held at — in and for
the said county on, &c. then and there to testify the truth,
and give evidence on our behalf before the grand inquest,
touching a bill of indictment to be preferred against C. D. in
a case of felony, and immediately after the said A. B. shall
have then and there given his testimony before our said jus-

(f) See form, Williams J. Evidence III. ante 1 vol. 321. 609. This subpœna is made out by the clerk of the peace, and each of the witnesses must be personally served either with a copy, or which is now most usual, with a ticket, see next form.
(g) More than four must not be inserted in one writ.
(h) Burn, J. Evidence IV. A. Williams, J. Evidence III.
(i) Ante, 1 vol. 322. Cro. C. C. 8th Ed. 482.

tices, to return him the said A. B. to our said prison, under safe and secure conduct, and have you then there this writ. Witness John Heath, esquire, at —, in the — year of the reign, &c. Lowndes.

That an affidavit made in the cause of, &c. may be taken off the file, and delivered to the clerk of the crown for —, in order to be sent up to the grand jury of the county of —, to have bills of indictment for perjury found thereon. Motion that an affidavit may be taken off the file of the court of Chancery, to be sent to the grand jury. (k)

You shall swear that you will diligently attend the grand inquest during the assizes, and carefully deliver to them all such bills of indictments or other things as shall be sent to them by the court without alteration. So help you God. Swearing bailiff to attend the grand jury. (l)

A true bill.

Indorsement of the finding a true bill (m)

Not found. [Or "not a true bill."]

Indorsement when the bill is not found. (n)

In the afternoon the court sends for the grand jury, and when they appear the clerk of assize calls them severally by their names and says, "Gentlemen, have you agreed upon any bills?" and the clerk of assize bids them present them to the court, and upon the delivery of them, he saith: Grand Jury return and proceedings at assizes. (o)

You are content the court shall amend matter of form, altering no matter of substance without your privity in those bills you have found. Consent to the alteration of matters of form. (p)

The* grand jury answer Yes; and return to their business again, viz. examining other bills. [* 187]

Gentlemen, You agree the court shall amend matter of form, altering no matter of substance?—Yes. Request at sessions, to grand jury to allow alteration in matter of form and consent of jury. (q)

If any one can inform my lords the king's justices, the king's serjeant, or attorney-general, of any treasons, murders, felonies, or other misdemeanours committed or done by the prisoners (or "prisoner" as it may be) at the bar, let him come forth and he shall be heard, otherwise this court doth discharge them (or "him") as it may be. Proclamation before discharge of prisoners against whom grand jury have not found a bill. (r)

Oyez. All manner of persons that have any thing further to do before my lords the king's justices of assize and nisi prius, oyer and terminer, and general gaol delivery for this Adjournment of the court. (s)

(k) 1 Sch. and L. 232. ante, 1 vol. 321.

(l) Cro. C. C. 8th Ed. 485.

(m) Ante 1 vol. 322, 3, 4.

(n) Ante 1 vol. 322, 3, 4.

(o) Cro. C. C. 8 Ed. 7. ante 1 vol. 324,

(p) Id. ibid. ante. 1 vol. 324.

(q) See form Dick. Sess. 158, ante 1 vol. 324.

(r) Cro. C. C. 8th Ed. 8, 483, ante 1 vol. 325.

(s) See form, Cro. C. C. 8th Ed. 480.

county of A, (or city of A, and county of the same city or town of,) &c. [*as it may be*] may depart hence at this time, and give their attendance here again to-morrow morning (or this afternoon as it shall happen), at — of the clock. God save the king, and my lords the king's justices.

Proclamation on re-opening court pursuant to the adjournment (t)

Record of bill of indictment thrown out by grand jury. (u)

All manner of persons that have any thing more to do before my lords the king's justices of assize and nisi prius, oyer and terminer, and general gaol delivery for this county, (or city, &c. as before observed in the adjournment) draw near and give your attendance.

Lincolnshire. Be it remembered that at the assizes and general sessions of oyer and terminer of our lord the king, holden at, &c. [*state oyer and terminer commissions*] for this time to hear and determine a certain bill of indictment against A. the wife of M. B. of Long Bennington, in the county of Lincoln, school-master, is exhibited to A. B. esquire, and (the grand jury) good and lawful men of the said county of Lincoln, then and there sworn and charged to enquire for our said lord the king and the body of the said county, which said bill of indictment is by the jurors above named returned into the court aforesaid, before the justices of our said lord the king above named, and others their fellows aforesaid, thus indorsed "No true bill," which said bill of indictment is as followeth, that is to say, [*Set out indictment.*] Blencowe.

[* 188] Record of an indictment for felony, preferred at the quarter sessions and grand jury's return of No true bill. (w)

Be* it remembered, that at the general quarter sessions of the peace of our sovereign lord the king, holden at the town of Abergavenny, in and for the county of Monmouth, on Wednesday the tenth of January, in the twenty-seventh year of the reign of our sovereign lord George the third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, before J. H. esquire, and other justices of our said lord the king, of the county of Monmouth, and also assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed and done in the said county, G. W. did exhibit and prefer a certain bill of indictment in writing against E. W. R. (by the name of E. W. R. late of, &c.) to G. H. &c. [*name all the grand jury*] good and lawful men of the said county, then and there sworn and charged to enquire for our said lord the king, for the body of the said county, which said bill followeth in these words: (to wit.) [*Here set out the indictment.*] And, afterwards, (to wit,) at the same general quarter sessions of the peace of our said lord the king, holden for the county aforesaid, at Abergavenny aforesaid, on the said, &c. before the aforesaid justices of our said lord the king, and other

(t) Cro. C. C. 8th Ed. 480.

(u) From Mr. Nicholl's MS. 140, ante 1 vol. 325.

(w) See form, 4 Wentw. 41,

said to be drawn by Mr. Graham, and see ante 1 vol. 325.

their fellows aforesaid, the said bill of indictment was, by the same jurors above named, then and there returned to the said court, at the same general quarter sessions of the peace holden in and for the said county, thus indorsed, "No true bill."

CHAPTER* VII.

[* 189]

CAPTIONS OF INDICTMENTS, PRESENTMENTS, INFORMATIONS, &c.

MIDDLESEX. Be it remembered, that at the general (or Caption of indictment. general quarter) session of the peace of our sovereign lord the king, of the county of Middlesex, holden in and for the at general, or general county of Middlesex at the new sessions-house on Clerken- quarter ses- well-green in the same county, on Monday the — day of sion of peace —, in the thirty-fifth year of the reign of our sovereign at Clerken- d lord George the third by the grace of God of the united king- well, for dom of Great Britain and Ireland, king, defender of the faith, county of before William Mainwaring, William Bleamire, Edmund Middlesex. (a) Pepys, William Hyde, esquires, and others their fellows, justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, by the oath of E. F. G. H. (b) &c. (*names of all the grand jurors*)

(a) See form Cro. C. C. 8th 326, 7, &c. and form of commis-
Ed. 27, 29. Pleader's Assistant, sion of peace ante 140.
424. Burn, J. Indictment, IX. 4 (b) It is better to insert the
Went. 181. 3 Lord Raym. 34. 1 names of all the jurors, see ante
Saund. 249 a. n. 1, ante 1 vol. 1 vol. 333. 4 Wentw. 191.

[* 190] *who found bill**) twelve jurors, good and lawful men of the county aforesaid, now here sworn and charged to enquire for our said lord the king for the body of the same county, it is presented in manner and form as followeth, that is to say: Middlesex, The jurors, [*here set forth the indictment.*]

The like of indictment at session of oyer and terminer at Clerkenwell, for Middlesex. (c)

Middlesex. Be it remembered, that at the general session of oyer and terminer of our sovereign lord the king, holden at the new session house on Clerkenwell-green in and for the county of Middlesex, on — the — day of —, in the — year of the reign of our sovereign lord George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, before W. M. esquire, Sir J. H. knight, G. S. esquire, and L. M. esquire, (d), and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king under his great seal of Great Britain to the same justices above-named and others, and any four or more of them, directed to enquire more fully the truth by the oath of good and lawful men of the said county of Middlesex, and by other ways, means, and methods by which they should or might better know, as well within liberties as without, by whom the truth of the matter may be better known, of all treasons, &c. [*as in the commission ante, and see Cro. C. C. 8th Ed. 29.*], by the oath of E. F. G. H. &c. [*here insert the names of all the grand jury*], good and lawful men of the said county of Middlesex, then and there sworn and charged to enquire for our said lord the king for the body of the said county. It is presented in manner and form as followeth, to wit: Middlesex, &c. [*here insert the indictment verbatim.*]

Caption of an indictment at general quarter sessions for county of Devon. (e)

Devonshire, to wit. Be it remembered, that at the general quarter sessions of the peace of our lord the king, holden at the castle of Exeter, in and for the county of Devon aforesaid, the — day of, &c. in the — year of the reign, &c. before J. C. clerk, Sir G. Y. bart. J. B. R. S. and J. H. esquires, and others their companions, justices of our lord the king, assigned to keep the peace of our said lord the king in and for the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the said county by the oath of G. H. I. K. &c.

[* 191] [*name all the jurors*], twelve jurors, good* and lawful men of the county aforesaid, then and there impanelled, sworn, and charged to enquire for our said lord the king and the body of the said county, it is presented as followeth, that is to say: Devon, to wit. The jurors, &c. [*set forth indictment.*]

(c) See form Cro. C. C. 29, be particularly named, ante 1 ante 1 vol. 327, 8. 1 Saund. 249. vol. 331.

a. n. 1. Pleader's Assistant, 424, (e) 4 Went. 149, 338, and ante 1 vol. 136. as to form of see form and law, Burn, J. Indictment, IX. Burn, J. Sessions. commission, &c.

(d) 4 Justices at least should

City of Carlisle, to wit. Be it remembered, that at the general quarter sessions of the peace of our sovereign lord the king, holden at the guildhall in and for the said city of Carlisle, on, &c. in the ——— year of the reign, &c. before C. R. esquire, mayor, and W. M. esquire, recorder, justices of our said lord the king, assigned to keep the peace of our said lord the king in the same city, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said city committed, upon the oath of G. H. I. K. L. M. &c. [*naming all the jury,*] twelve jurors, honest and lawful men of the said city, who being then and there sworn and charged for our said lord the king, for the body of the said city, upon their oath say and present as followeth, that is to say, &c.

West Riding of Yorkshire. At the general quarter sessions of the peace of our lord the king, holden at Skipton, and for the west riding of the county of York, on Tuesday, on the 6th day of July, in the sixteenth year of the reign of, &c. before H. W. esquire, and T. C. clerk, justices of our said lord the king, assigned to keep the peace of our said lord the king in the said riding, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed within the riding aforesaid; that same sessions of the peace is adjourned by the justices aforesaid until, &c. at ten o'clock in the forenoon of the same day, to be holden at Bradford, in and for the riding aforesaid, to do further as the court there shall consider, and so forth. And on the said, &c. the same general quarter sessions of the peace is holden by the adjournment aforesaid, at Bradford aforesaid, in and for the said riding, before H. W. esquire, H. Z. clerk, and P. M. esquire, justices of our said lord the king, assigned to keep the peace of our said lord the king in the riding aforesaid; and also to hear and determine divers felonies, trespasses, and other misdemeanours committed within the riding aforesaid, at which said general quarter sessions of the peace, continued and holden by the adjournment aforesaid,* at Bradford aforesaid, in and for the said riding, on, &c. aforesaid, before the justices last named, on the oaths of twelve jurors, L. M. N. O. P. Q. &c. [*naming them,*] honest and lawful men of the said riding, then and there impanelled, sworn, and charged to enquire for our said lord

Caption of
Indictment
at quarter
sessions for
city of Car-
lisle. (f)

Caption of
indictment
found at ad-
journed ses-
sions for
West Riding
of York-
shire. (g)

[* 192]

(f) See another form, 3 Lord Raym. 18. Pleader's Assistant, 424. and other forms and notes ante, and 1 vol. 333, &c.

(g) This form is taken from 19 vol. of Mr. J. Ashurst's MS. paper books, 128; see also 1 T. R. 316. Where an indictment is

found at an adjourned sessions, it must appear when the sessions began, 2 Stra. 865. If the caption state an impossible day, the proceedings will be insufficient on demurrer, &c. 1 T. R. 316. 2 Leach, 475, S. C.

the king and the body of the said riding. It is presented as following (that is to say:) West Riding of Yorkshire, to wit. The jurors, &c. [*set forth indictment.*]

Caption of indictment at the assizes at Croydon in Surrey, or at any other assizes. (h)

[* 193]

Surrey, (to wit.) Be it remembered, that at the session of oyer and terminer of our sovereign lord the king, holden at Croydon, in and for the county of Surrey, on Monday the twenty-second day of July, in the thirty-third year of the reign of our sovereign lord George the third, now king of Great Britain, &c. before the honourable sir Henry Gould, knight, one of the justices of our said lord the king, of his court of common pleas; the honourable sir Francis Buller, baronet, one of the justices of our said lord the king assigned to hold pleas before the king himself, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said sir Henry Gould, knight, sir Francis Buller, and others their fellows, justices of our said lord the king, and to any two or more of them directed, of whom one of them the said sir H. Gould and sir F. Buller, amongst others in the said letters patent named, our said lord the king willed to be one to enquire more fully the truth by the oath of good and lawful men of the said county, and by other ways, means, and methods (i) by which they should or might the better know, as well within liberties as without, by whom the truth of the matter might be the better known and enquired into, of all treasons, misprision of treason, insurrections, rebellions, counterfeittings, clippings, washing, false coining, and other falsities of the money of Great Britain and other kingdoms and dominions whatsoever, and of all murders, felonies, manslaughterers, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries, whatsoever; and also the accessories of them within the county aforesaid, as well within liberties as without, by whomsoever and in what manner soever done, committed, or perpetrated, and by whom or to whom, when,* how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them, or any of them, in any manner whatsoever; and the said treasons and other the premises according to the laws and customs of England for this time to hear and

(h) 4 Wentw. 116, 174, 187. (i) The following is to be according to the terms of the
5 Wentw. 373. Hand's Prac. commission ante 184.
436. 4 T. R. 521, ante 1 vol.
326, &c.

determine by the oath of twelve jurors, (l) good and lawful men of the county aforesaid, now here sworn and charged to enquire for our said lord the king, for the body of the said county. It is presented in manner and form as followeth, that is to say, Surrey, (to wit.) The jurors, &c. [*Here set forth the indictment.*] In the caption for Wiltshire the form runs thus: "It is presented that the bill of indictment to this schedule annexed is a true bill."

Middlesex, (to wit.) Be it remembered that at a special session of oyer and terminer of our sovereign lord the king, of and for the county of Middlesex, holden at the sessions-house, on Clerkenwell green, in the said county, on Thursday the 2d day of October, in the 34th year of the reign, &c. before the right honourable sir James Eyre, knight, chief justice of our said lord the king of his court of common pleas, the right honourable sir A. Macdonald, knight, chief baron of our said lord the king of his court of exchequer; the honourable sir Beaumont Hotham, knight, one of the barons of our said lord the king of his said court of exchequer; the honourable sir F. Buller, bart. one of the justices of our said lord the king of his said court of common pleas; the honourable sir N. Grose, knight, one of the justices of our said lord the king assigned to hold pleas before the king himself; the honourable sir S. Lawrence, knight, one other of the justices of our said lord the king assigned to hold pleas before the king himself, and others their fellows justices and commissioners of our said lord the king assigned by letters patent of our said lord the king under his great seal of Great Britain made to them and others, and any three or more of them (of whom one of them, the aforesaid sir J. E. sir A. M. sir B. H. sir F. B. sir N. G. and sir S. L. our said lord the king willed should be one) to enquire by the oath of good and lawful men of the county of Middlesex, of all high treasons, in compassing or imagining the death of our said lord the king, levying war against our lord the king in his realm, or in adhering to the enemies of our said lord the king in his realm, giving to them aid and comfort in his realm or elsewhere, and of all misprisions of such high treasons as aforesaid, or of any of them* within the county aforesaid (as well within liberties as without) by whomsoever and in what manner soever done, committed, or perpetrated, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every and any of them in any manner whatsoever, and the said treasons and misprisions of treasons according to the laws and customs of England, for this time to hear and

Caption of indictment found on a special commission for trial of Hardy, Took, &c. (m)

[* 194]

(l) In another precedent, 4 Wentw. 175. 6 Wentw. 373, the names of the jurors were stated.

(m) See form, 4 Wentw. 14. See another form, Foster's Rep. 3, ante 1 vol. 329.

determine by the oath of E. F. &c. [*Here insert the names of twenty grand jurors who found the bill,*] good and lawful men of the county aforesaid, now here sworn and charged to enquire for our said lord the king for the body of the said county, touching and concerning the premises in the said letters, patent mentioned. It is presented in manner and form as followeth, that is to say, Middlesex, (to wit.) [*Here set forth the indictment for treason as in 4 Went. 15. In Foster's C. L. 3. the form concludes, "It is presented that the bill of indictment to this schedule annexed is a true bill."*]

Caption of indictment in K. B. at Westminster. (n)

Middlesex. Be it remembered that on Monday next after fifteen days from Saint Martin, in the thirtieth year of the reign of our sovereign lord George the second, king of Great Britain, &c. in the court of our said lord the king before the king himself, at Westminster in the county of Middlesex, upon the oath of twelve jurors, good and lawful men of the county aforesaid, then and there sworn and charged to enquire for our said lord the king, for the body of the said county, it is presented as followeth, that is to say, Middlesex. [*Here insert the indictment.*]

Caption at adjourned sessions of presentment by justice of highway being out of repair. (o)

Cambridgeshire, (to wit.) Be it remembered that at the general quarter sessions of the peace of our sovereign lord the king, holden at Cambridge, in and for the said county of Cambridge, on Friday the 7th day of April, and by adjournment on Saturday the 8th day of the same month, (being Friday in the 1st week after the close of Easter) in the fifty-fifth year of the reign of our sovereign lord George III. by the grace of God, &c. before George Milner, esquire, chairman, William Frere, esquire, serjeant at law, William Leworthy, clerk, and others their companions, justices of our said lord the king, assigned to keep the peace in and for the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county done* and committed. The presentment hereunto annexed against the inhabitants of the parish of Saint Giles, in the town of Cambridge, in the county of Cambridge, is made on the view of the said William Frere, one of the justices of our said lord the king, assigned to keep the peace within the county aforesaid, which said presentment is as follows, that is to say, Cambridgeshire, (to wit.) At the general quarter sessions, &c. [*Set out the presentment verbatim, as ante 2 vol. p. 10.*]

[* 195]

Caption of an information quit am, at a general quarter ses-

Middlesex. Be it remembered, that G. B. late of the parish of A. in the county of Middlesex, gentleman, who, as well for our sovereign lord the now king as for himself, doth prosecute in this behalf, cometh before the justices of our

(n) 4 Wentw. 213, 219.

cient form 2 Saund. 157, and 1 Saund. 308.

(o) This is a MS. from Mr. Nicholl's collection. See an an-

said lord the king assigned to keep the peace of our said lord the king, in and for the said county of Middlesex, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, at their general quarter session of the peace, holden at the new sessions-house on Clerkenwell-green, in and for the said county, on Monday the — day of —, in the twenty-second year of the reign of our sovereign lord George the third, in his proper person; and as well for our said lord the king as for himself, giveth the court here to understand and be informed, That, &c. [*Proceed as ante, 2 vol. 11 and 12.*]

Essex, Middlesex, and Kent, (to wit.) Be it remembered that by and at a special session and court of sewers, duly held for the limits of the levels of Havering, Dagenham, Ripple, Barking, Eastham, Westham, Layton, Walthampstow, Bromley, and East Marsh, and for the respective borders or confines thereof, near to the same, as the same respectively is, and standing, lying, running, and being within the said respective counties, and within the bounds, limits, and jurisdictions of his majesty's commissioners of sewers, duly issued under the great seal of Great Britain, on the nineteenth day of June, in the year of our Lord, 1761, still in force unsuspended, at the sign of the Green Man, in Great Ilford, in the said county of Essex, on, &c. before Bamber Gascoyne, esquire, chairman, S. W. J. K. J. L. C. S. T. F. J. G. W. S. G. S. E. R. M. A. and W. R. esquires, commissioners in the said commission named, three thereof, (to wit) the said Bamber Gascoyne, Samuel Wegg, and Joseph Kerling, are therein and thereby nominated and appointed of the quorum, come twelve sewers jury for our sovereign lord the king, being duly returned and charged, &c. come upon a sewer's jury for the limits, and for the borders and confines of Ripple, and Barking Levels, in the said county of Essex, to wit, Mr. K. J. A. J. B. G. C. F. L. J. B. R. S. R. H. H. F. T. T. H. M. and J. P. who having according to the tenor of the commission aforesaid diligently enquired, as such jury, into the several matters and things belonging to the sewers within the limits of the charges of the said jurors, according to the tenor, true intent, and meaning of the said commission, the said jurors do upon their oath present in writing to the court here as follows; that is to say, Westbury, Little Level within Barking, Great Level, Essex. The jurors aforesaid upon their oath aforesaid, present, &c. [*Here set forth an offence on not repairing River Wall, ratione tenuræ, as in 4 Wentw. 190.*]

(p) Cro. C. C. 8th Ed. 237, ante 2 vol. 11 and 12. (q) See form, 4 Wentw. 190.

PROCEEDINGS ON AMENDMENT OF CAPTIONS.

The King
against

Easter Term, 24 Geo. 3.

Christopher Atkinson.

Rule to shew
cause why
the return
to writ of
certiorari
and caption
of indict-
ment should
not be
amended. (r)

UPON reading the affidavits of I. W. and J. P. and also on reading the commission of oyer and terminer for the county of Middlesex, and the minutes of the court before which the indictment in this cause was found, now produced and shewn to this court; It is ordered that Wednesday next to be given to the defendant, to shew cause why the return to the writ of certiorari issued by this court at the instance of the defendant, should not be amended, by inserting therein the commission of oyer and terminer, by virtue of which, and also the names of the justices by whom the above mentioned court was holden at the time when the said indictment was found according to the truth of the fact appearing by the said commission, and the minutes above mentioned, now produced to this court as aforesaid, and also why the caption of the said indictment should not be thereby amended, and made agreeable to the said return when so amended as aforesaid. And also that the said defendant shall upon the same day shew cause why the aforesaid caption should not be likewise amended, by inserting therein the names of the jurors by whom such indictment was found as stated in the return already made to the said certiorari upon notice of this rule to be given to the said defendant, and also to the clerk of the justices named in the said commission of oyer and terminer, or his deputy in the mean time.

The King
against

Trinity term, 43 Geo. 3.

[* 197] Hill Darley.

Another rule
to shew
cause nearly
similar.

UPON reading the affidavit of W. E. and a parchment writing thereunto annexed, and the minutes of the court before which the indictment* in this prosecution was found, now produced and shewn to this court, the return of the writ of certiorari issued by this court at the instance of the defendant should not be amended by inserting in the return of the caption the time when the general quarter sessions of the peace at which the said indictment was found was holden, and the names of the justices by whom the said session was holden, and the names of the jurors by whom the same was found according to the truth of the fact. And why the entry roll in the treasury, and also the record of nisi prius should not be amended as to the caption of the indictment, by making the same agree with the caption when so amended.

The King
against

Trinity Term, 24 Geo. 3.

Christopher Atkinson.

It is ordered that the entry roll in the treasury, and also the record of nisi prius in this cause be amended as to the caption of the indictment, by making the same agree with the amended caption lately returned into this court by the clerk of the peace of the county of Middlesex, and filed in this court by virtue of a rule of this court made in the last term.

Rule absolute for amending caption. (s)

CHAPTER* VIII.

[* 198]

OF PROCESS, VIZ. CAPIAS—BENCH WARRANTS—CERTIFICATES OF INDICTMENT FOUND—JUDGES' AND JUSTICES' WARRANTS—SUPERSEDEAS—NOTICES OF BAIL—RECOGNIZANCES OF BAIL—COMMITMENTS—RULES FOR BRINGING UP AND CHARGING DEFENDANT, AND PROCESS TO OUTLAWRY, &c.

GEORGE the third, by the grace of God of the United Kingdom of Great Britain and Ireland, king, defender of the faith, to the sheriff of —, greeting: we command you, that you omit not, for reason of any liberty in your bailiwick, but that you enter therein and take C. D. late of, &c. labourer, [as in indictment] if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices of oyer and terminer, and gaol delivery, at the next session of oyer and terminer, and gaol delivery, to be holden in and for your county, to answer us concerning a certain felony whereof he stands indicted. And have you there this writ. Witness — at — the — day of — in the — year of our reign.

Capias at assizes. (a)

(s) 4 East, 176.

(a) See ante 1 vol. 339, and see form of capias and alias capias, 11 Harg. St. Tr. 200.

The form of bench warrant from sessions

Clerkenwell to bring defendant into court after, on indictment being found at sessions. (b)

[* 199]

MIDDLESEX. To all constables, headboroughs, and other his majesty's officers and ministers within the county of Middlesex, and to every of them whom it may concern.

These are to will and require, and in his majesty's name to charge and command you, upon sight hereof, to bring before us, his majesty's justices of the peace for the county aforesaid, at the sessions of the peace (or general quarter sessions of the peace) now* holden at the new sessions-house in Clerkenwell Green, in and for the said county, the body of C. D. who stands indicted before us at this same session for a trespass and assault (*specify the offence*), if the court be then and there sitting, or if not, before us or some other of his majesty's justices of the peace of the same county, to find sufficient sureties for his personal appearance at this present session to answer the said indictment, and all such other matters as on his majesty's behalf shall be objected against him; and if he cannot be taken during this present session, that then, as soon after as he shall be taken, you bring or cause him to be brought before us, or some other of his majesty's justices of the peace of the said county, to find sufficient sureties, that is to say, two sureties in —l. each, for his personal appearance at the next session of the peace to be holden for the said county, to answer as aforesaid, and further to be dealt with according to justice. Hereof you are not to fail at your peril. Dated in open session, at the new sessions-house aforesaid, this — day of December, in the year of our Lord 1816.

Certificate of a person standing indicted at general quarter sessions for Clerkenwell, for an assault. (b)

Certificate of a person standing indicted for keeping a disorderly house. (c)

Middlesex. These are to certify that, at the general quarter sessions of the peace of our lord the king, holden at the new sessions-house, on Clerkenwell Green, in and for the county of Middlesex, on Monday the — day of — last past, W. J. was and stands indicted for a trespass and assault upon H. N. widow; to which indictment the said W. J. hath not as yet appeared or pleaded. Dated this — day of —, in the year of our Lord 1816.

Middlesex. These are to certify that, at the general quarter sessions of the peace of our lord the king, holden in and for the county of Middlesex, at the session-house for the said county, on Monday the thirteenth day of January inst. Frances Parker, late of the parish of St. Mary-le-bone, in the county of Middlesex, single woman, was and now stands indicted for unlawfully keeping and maintaining a certain com-

(b) Ante 1 vol. 342. see forms, Williams, J. process, note II. Cro. C. C. 7 Ed. 56. Toone Man. 62. It is said in Hawk. b. 2. c. 27. s. 8. that a bench warrant must be signed by two justices at least, and while the court is

sitting.

(b) Ante 1 vol. 342. Cro. C. C. 8th Ed. 94, 7 Ed. 57. Williams, J. Process. 6 Wentw. 437.

(c) Ante 1 vol. 342, and the last precedent.

mon bawdy-house at the said parish, for filthy lucre and gain; to which indictment the said Frances hath not as yet appeared or pleaded. And these are further to certify, that it was ordered that the above-named defendant should give twenty-four hours' notice of bail to Messrs. Greenwell and Lloyd, of No. 24, Bentinck-street, Manchester square, solicitors for the prosecution, before the same be taken. Dated the 23d day of January 1812.

H. C. Selby,

Clerk of the peace for the said county of Middlesex.

Public* Office, Bow-street.

To all constables and other his majesty's officers of the peace for the said county, whom these may concern.

Middlesex, (to wit.) These are in his majesty's name to command you, and every of you, upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace for the said county, the body of C. D. late of, &c. [*addition as in the indictment*] who stands indicted at the last general (or general quarter) session of the peace, held at the session-house, Clerkenwell, in and for the said county, for, &c. [*describe the crime charged concisely.*] To which indictment the said C. D. has not yet appeared or pleaded, as it appears to me by a certain certificate under the hand of G. H. esquire, clerk of the peace for the said county. Hereof fail not at your peril. Given under my hand and seal this 10th day of January, one thousand eight hundred and sixteen.

E. F. (L. S.)

Police Office, Union Hall, Southwark.

Established pursuant to act of Parliament, 42 Geo. III cap. 76.

Surrey, (to wit.) To all constables, and other his majesty's officers of the peace, whom these may concern.

These are, in his majesty's name, to command you, and every of you, upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace for the said county, the body of C. D. late of, &c. [*addition as in the indictment,*] who standeth indicted at the last general (or general quarter) sessions of the peace, holden at ———, in and for the said county, for, &c. [*describe the offence charged concisely.*] To which indictment the said C. D. has not as yet appeared or pleaded, as appears to me by a certificate under the hand of G. H. clerk of ——— for the said county. Given under my hand and seal this ——— day of ——— 1816.

E. F. (L. S.)

Public Office, Bow Street.

To all constables and others his majesty's officers of the peace for the said county, city and liberty, whom these may concern.

Middlesex, City and Liberty of Westminster, (to wit.)

[* 200]
Warrant by
a justice of
peace at
Bow-street,
on certifi-
cate of in-
dictment
found at
Clerkenwell
sessions. (d)

The like at
police office,
Union Hall,
Southwark.
(e)

Warrant of
justice of
peace at
Bow street,
against seve-

(d) Ante 1 vol. 340.
Crim. Law.

(e) Ante 1 vol. 340, and form supra.
VOL. IV. B b

ral, after in-
dictments
found for fe-
lony, at gaol
delivery.
Newgate.(f)

[* 201]

These are, in his majesty's name, to command you, and every of you, upon sight hereof, to take and bring before me, or some other of his majesty's justices of the peace for the said county, city, and liberty, the bodies of Joseph Gregory, late of the parish of Rimslip, in the county of Middlesex, labourer, Robert Bray, late of the same, labourer, and Richard Yates, late of the same, labourer, of whom you shall have notice, they standing indicted at the* delivery of the king's gaol of Newgate, holden for the county of Middlesex, on the 13th day of January last, for knowingly and feloniously sending to one Thomas Newman, of Rimslip aforesaid, baker, a certain letter in writing, without any name subscribed thereto, directed to the said Thomas Newman, demanding certain valuable things, to wit, six half-peck loaves, and eight pounds of cheese, against the statute; upon which indictment they the said Joseph Gregory, Robert Bray, and Richard Yates, have not as yet been arraigned or tried, as appears by a certificate under the hand of Thomas Shelton, clerk of the session of gaol delivery. Hereof fail not, at your peril. Given under my hand and seal, this 29th day of October, in the year of our Lord, 1802. N. Bond.

Judge's war-
rant to ap-
prehend J.
B upon an
indictment
for an as-
sault, certi-
fied to have
been found
against him
by the clerks
of the peace.
(g).

England, (to wit.) Whereas it is certified unto me, by the clerk of the peace for the county of Middlesex, that at the general sessions of the peace of our lord the king, holden in and for the county of Middlesex, on, &c. J. B. late of, &c. was and now stands indicted for making an assault upon W. Y. gentleman, and unlawfully, violently, and injuriously seizing and taking from the said W. Y. against his consent, a receipt bearing date the twenty-fifth day of April last, purporting to be the receipt of one V. W. to Mr. R. S. for the sum of £——, for a debt due to the said V. to which indictment the said J. B. hath not as yet appeared or pleaded; these are therefore to will and require, and in his majesty's name strictly to charge and command you, and every of you, upon sight hereof, to apprehend and take the body of the said J. B. and bring him before me, or one other of the judges of his majesty's court of King's Bench, if taken in or near the cities of London or Westminster, if elsewhere, before some justice of the peace near to the place where he shall be herewith taken, to the end that the said J. B. may become bound with sufficient securities for his personal appearance at the next general quarter sessions of the peace of our lord the king, to be holden in and for the county of Middlesex, to answer the said indictment, and be further dealt with according to law. Hereof fail not at your peril. Given under my hand and seal the sixth day of June, A. D. 1787.

Francis Buller.

(f) Ante 1 vol. 340.

Wentw. 437. 4 Bla. C. 314.

(g) Ante 1 vol. 340. See 6

England, (to wit.) Whereas it is certified to me by one of the clerks of the Crown Office, that by virtue of his Majesty's writ of certiorari, an indictment was returned in his said majesty's court of K. B. at Westminster, as of Trinity Term last, against the Rev. R. B. late of, &c. clerk, J. D. late of the same place, gentleman, J. C. late of the same place, esquire, T. T. M. late of the same place,* esquire, and J. B. late of the same place, gentleman, for certain trespasses, attempts, conspiracies, and misdemeanours, for that they being persons lawfully confined in the king's bench prison, and detained in the custody of the marshal of the said prison, for divers large sums of money, unlawfully did conspire, combine, confederate and agree among themselves to break down, demolish, prostrate, and destroy part of the wall belonging to, and inclosing the said prison, and thereby to effect the escape of themselves and divers other persons then lawfully confined in the said prison, in the custody of the marshal of the said prison, from and out of the said prison, and in pursuance of such conspiracy, unlawfully bringing and introducing a certain wooden box, and large quantities of gunpowder, with intent to have placed part of the same in a certain sewer under the said wall, and the other part thereof in the lobby or entrance of the said prison, with intent to set fire to the said gunpowder, and thereby blow up and destroy the said part of the said wall of the said prison, and the walls and doors of the said lobby, and by that means to effect their escape from the said prison, to which said indictment the said R. B., J. D., J. C., T. T. M. and J. B. have not, nor hath either of them appeared. These are therefore to will and require, and in his majesty's name strictly to charge and command you and every of you on sight hereof, to apprehend, and take the bodies of the said R. B., J. D., J. C., T. T. M. and J. B., and bring them before me or one other of the judges of his majesty's court of king's bench, if taken in or near the cities of London or Westminster; if elsewhere, before some justice of the peace, near to the place where they shall herewith be taken, to the end that they may severally become bound with sufficient securities for their respective appearance in his majesty's court of king's bench at Westminster, and to plead within the first eight days of next term to the said indictment, and to try the same at the next assizes to be held after the same term, in and for the said county of Surrey, and personally to appear in the same court on the return of the postea, in case they should be convicted, and to be further dealt with according to law. Hereof fail not at your peril.

Given under my hand and seal, the fourteenth day of July, one thousand seven hundred and ninety-two.

Kenyon.

(h) Ante, 1 vol. 340, see form 4 Wentw. 118.

Warrant by the chief justice of England to apprehend persons on certificate of clerk of peace, of indictment, found for conspiracy to blow up the walls of king's bench prison and effect their escape. (h) [* 202]

To William Jones, esquire, marshal of the marshalsea.
To George Wilkinson, gentleman, my tipstaff. And to all
chief and petty constables, headboroughs, and tything men,
and to all others whom these may concern.

I do hereby certify the above to be a true copy of the
[* 203] original* warrant, filed with me the fourteenth day of July,
one thousand seven hundred and ninety-two.

W. Bryant, clerk of the papers of the king's
bench prison, 18th July, 1793.

Judge's war-
rant for the
apprehen-
sion of the
defendant.
(i)

England, (to wit.) Whereas it is certified to me, by, &c.
that, &c. as ante 201. These are therefore to will and require,
and in his majesty's name strictly to charge and command
you, and every of you, on sight hereof, to apprehend and
take the body of the said A. B. and bring him before me or
one other of the judges of his majesty's court of king's bench
if taken within or near the cities of London or Westminster;
if elsewhere, before some justice of the peace, near to the
place where he shall be herewith taken, to the end that the
said A. B. may become bound with sufficient sureties for his
personal appearance in his majesty's court of K. B. at West-
minster, and to plead within the first eight days of next
Michaelmas term to the said indictment, and to try the same
at the sitting of nisi prius, to be holden after the same term,
in and for the county of M. and personally to appear in the
same court on the return of the postea, in case he shall be
convicted; and if he the said A. B. shall neglect or refuse
to become bound as aforesaid, that he may be committed to
the common gaol of the county, city, or place where he shall
be apprehended by virtue thereof, there to remain until he
shall become bound as aforesaid, or shall be discharged,
&c.

Warrant af-
ter indict-
ment found,
issued on
certificate of
clerk of the
peace. (k)

They standing indicted at the last general quarter session
of the peace, for the said county, at Hicks's Hall, in St.
John's-street, for assaulting, beating, and wounding one T.
B. to which indictment he hath not as yet appeared or pleaded,
as appears by a certificate under the hand of T. Forbes,
esquire, clerk of the peace for the said county.

Judge's war-
rant on the
certificate of
the clerk of
the peace, on
an indict-
ment for per-
jury, found

England, (to wit.) Whereas it is certified to me by the
clerk of the peace for the county of Middlesex; that at the
general session of oyer and terminer, of our lord the king,
holden in and for the county of Middlesex, at the session-
house for the said county, on Tuesday, the fourth day of
April instant, Joseph Sweet, late of London, gentleman, was

(i) See form ante, 1 vol. 340,
343, Hand. Pr. 379. This war-
rant may be obtained by the pro-
secutor's solicitor from either of
the judge's clerks, immediately
after he has removed the indict-

ment on a certificate thereof from
his clerk in court, Hand. Pr. 379.

(k) This may be issued by a
justice, or there may be a bench
warrant or a judge's warrant.

and now stands indicted for wilful and corrupt perjury, on the thirteenth day of February last, at the parish of St. Margaret, Westminster, in the court of our lord the king, before the king himself, in a certain affidavit in writing; to which indictments the said J. hath not as yet appeared or pleaded.

These* are therefore to will and require, and in his majesty's name strictly to charge and command you, and every of you, on sight hereof, to apprehend and take the body of the said J. S. and bring him before me or one other of the judges of his majesty's court of king's bench, if taken in or near the cities of London or Westminster; if elsewhere, before some justice of the peace, near to the place where he shall be herewith taken, to the end that he may become bound with sufficient sureties for his personal appearance at the next general session of the peace, to be holden in and for the county of Middlesex, to answer the said indictment, and to be further dealt with according to law. Hereof fail not at your peril. Given under my hand and seal, the thirteenth day of April, one thousand eight hundred and fifteen. J. Bayley, (L. S.)

To J. B. tipstaff, or any other tipstaff of his majesty's court of king's bench, and to all chief and petty constables, head-boroughs, tything men, and all others whom these may concern.

After reciting that it was certified, that at the general session of oyer and terminer, at the Old Bailey, on the 11th January, 37 Geo. 3, the plaintiff was and stood indicted for perjury, to which indictment he had not appeared or pleaded, the warrant required and commanded the defendants' peace officers to apprehend the plaintiff, and bring him before one of the judges of the court of king's bench, &c. to the end that he may become bound with sufficient sureties for his personal appearance at the next sessions of oyer and terminer of our lord the king, to be holden for the city of London, to answer the said indictment, and be further dealt with according to law; dated the 21st of January, 1797.

England, (to wit.) Whereas it is certified unto me, by one of the clerks in the crown office, that Edward Rich, late of the parish of Saint Martin in the Fields, in the city and liberty of Westminster, and county of Middlesex, bookseller, stands indicted in his majesty's court of king's bench at Westminster, as of this present Trinity Term, for certain misdemeanours, in publishing certain wicked, nasty, filthy, bawdy, and obscene libels, on the twenty-fifth day of April, and the twenty-fourth and thirtieth days of May last, at the parish aforesaid, in the county aforesaid, to which indictment the said Edward Rich hath not as yet appeared.

against defendant at the general sessions of oyer and terminer, at sessions-house, in the county of Middlesex, defendant not having appeared or pleaded. (l) [* 204]

Warrant to apprehend a person by Lord Ch. J. to appear to an indictment. (m)

Judge's warrant to apprehend defendant on an indictment found in K. B. for selling obscene libels, on certificate of a clerk in the Crown Office. (n)

(l) Ante, 1 vol. 340. See a similar form issued by Ld. Kenyon, on indictment at Old Bailey, 8 T. R. 110. post 204.

(m) See form ante, 1 vol. 340, 343. 8 T. R. 110.

(n) Ante 1 vol. 340.

[* 205] These are therefore to will and require, and in his majesty's name strictly to charge and command you, and every of you, upon sight hereof, to apprehend and take the body of the said E. R. and bring him before me, or one other of the judges of his majesty's court of king's bench, if taken in or near the cities of London* or Westminster; if elsewhere, before some justice of the peace near to the place where he shall be herewith taken, to the end that the said E. R. may become bound with sufficient sureties for his appearance in his majesty's court of king's bench at Westminster, and to plead within the first eight days of Michaelmas term to the said indictment, and personally to appear in the same court, on the return of the postea, in case he shall be convicted. Hereof fail not at your peril. Given under my hand and seal the twenty-first day of June, in the year of our Lord one thousand eight hundred and six. N. Grose. (L. S.)

To John Belcher, tipstaff, or any other tipstaff of the court of king's bench, and to all chief and petty constables, headboroughs, tythingmen, and all others whom it may concern.

SUPERSEDEAS.

Public Office, Bow-street, (or Great Marlborough-street.)

Established pursuant to act of Parliament.

To all and every the constables, and other his majesty's officers of the peace, whom these may or shall concern.

Supersedeas
after indictment
for assault found.
(o)

Middlesex, (to wit.) These are to certify to you, and every of you, that John Green, late of the parish of Saint George, Hanover square, in the said county, labourer, came this day before me, George Hicks, esquire, one of his majesty's justices of the peace for the said county, and entered into a recognizance, with sufficient sureties for his personal appearance at the next general sessions of the peace to be holden for the said county, then and there to answer such matters and things as shall be objected against him on his majesty's behalf, and particularly to answer to an indictment found against him for assaulting, beating and wounding Charles Elsegood, and in the mean time to keep the peace, and be of good behaviour.

These are therefore, in his majesty's name, strictly to charge and command you, and every of you, on sight hereof, not to molest, arrest, or attach the body of the said John Green, for or by reason of any warrant issued against him

(o) Ante 1 vol. 346. N. B. 8th Ed. 17. This is the form used at the Bow-street and Marlborough-street offices. See also forms, Dalton, J. cap. 175, and ch. 193, p. 477, 478. and ante 1 vol. 346. and Crown C. C. \$1,2,3.

for the said offence; and if the said John Green be already arrested, and in your custody for the said offence, and for no other, that you forthwith, on sight hereof, set him at liberty, as you will answer the contrary at your peril. Given* under my hand and seal this 16th day of January, one thousand eight hundred and sixteen. G. Hicks. (L. S.)

[* 206]

Public Office, High-street, Shadwell.
Established pursuant to act of Parliament.

[*King's Arms.*]

Middlesex, (to wit.) To all constables, headboroughs, and other peace officers whom these may concern.

Supersedeas
after indictment found,
and before
appearance.
(p)

Whereas C. D. hath this day found sufficient sureties before me E. F. esquire, one of his majesty's justices of the peace for the said county, for his personal appearance at the next general (or general quarter) session of the peace, to be holden in and for the said county, at the sessions-house, on Clerkenwell Green, then and there to plead to a bill of indictment found against him at the last general (or general quarter) session of the peace holden for the said county; for (*state the offence.*) To which indictment he the said C. D. hath not as yet appeared or pleaded, as appears to me by certificate under the hand of G. H. esquire, clerk of the peace for the said county of Middlesex, dated the ——— day of ———, 1816. These are therefore, in his majesty's name, to charge and command you, and every of you, on sight hereof, to forbear to arrest, imprison, molest, or any otherwise detain the body of the said C. D. for, by reason, or means of the fact or cause above mentioned, and no other; and this shall be to you, each, and every of you, a sufficient warrant. Given under my hand and seal this ——— day of ——— in the year of our Lord 1816. E. F. (L. S.)

The King
against

Surrey

J. N. indicted for assaulting J. B.

Take notice, that the above-named J. N. will personally be and appear before the right honourable Edward lord Ellenborough, or such other judge as shall be sitting at chambers in Serjeant's inn Chancery Lane, on, &c. at the hour of eleven o'clock in the forenoon, and will then and there enter into a recognizance, with sufficient sureties for his personal appearance at the next session of the peace to be holden for the county of Surrey, to answer an indictment preferred against him for assaulting the above-named J. B.; and the names of such sureties are T. N. No. 190, High Holborn, in the county of Middlesex, plumber, and J. N. of No. 189, High Holborn, in the said county, oilman. Dated, &c.

Notice of
bail to in-
dictment for
an assault in
Surrey,
where in-
dictment was
found and
certified, and
defendant
taken under
a judge's
warrant. (q)

Your's, &c. W. F. attorney for the said J. N.

To J. B. the prosecutor above-named.

(p) Ante 1 vol. 346.

see Cro. C. C. 298. Toone, 43.

(q) Ante 1 vol. 343, &c. and 30 Geo. 2. c. 2. c. 24.

**The like
where in-
dictment
was for keep-
ing a disor-
derly house.**

(r)
[* 207]

Middlesex,* (to wit.) **The King
against
Francis Parker,** } **for a nuisance.**

Take notice, that Wm. Brewster, of No. 9, Booth's Court, Well's street, St. Mary-le-bone, in the county of Middlesex, shoemaker, and Richard Wiggins, of No. 12, Ogle street, St. Mary-le-bone, in the same county, shoemaker, will on Saturday next, the 25th day of January instant, at seven o'clock in the evening, before such of his majesty's justices of the peace as shall be sitting at the public office, in Marlborough street, become bail for the personal appearance of the above-named defendant at the next session of the peace to be holden in and for the said county, to answer and plead to the indictment preferred and found the last session, for unlawfully keeping a common bawdy house. Dated this 24th day of January, 1812. Your's, &c. J. N. solicitor for defendant.

To G. and L. N. solicitors for the prosecution.

The King } on the Prosecution of W. P.
against } J. M.

**Notice of
putting in
bail at
judge's
chamber, on
indictment
for assault.
(5)**

Mr. W. P. Take notice, that I shall put in bail before Mr. justice Buller, at his chambers in Serjeant's-inn, Chancery-lane, to-morrow at six o'clock in the evening, for my appearance at the next general session of the peace, to be holden at the new sessions-house on Clerkenwell-green, in and for the county of Middlesex, then and there to answer and plead to the indictment you have preferred against me for assaulting you. The names of the bail are, M. S. of Tavistock-street, near Covent-garden, mercer, and P. G. of the same place, victualler, dated this — day of —, A. D. 1816.

Your's, &c. J. M.

**The King on the Prosecution of A. B.
against
C. D.**

**Notice of
putting in
bail on a
bench war-
rant before a
justice. (t)**

Mr. A. B. Take notice, that on ———, the ——— of ———, 1812, at eleven o'clock in the forenoon, I shall put in bail before S. P. esquire, one of his majesty's justices of the peace in and for the county of Middlesex, at his house situate in New Brentford in the said county, for my appearance at the next general quarter session of the peace to be held at the sessions-house, Clerkenwell-green, in and for the said county, then and there to answer and plead to the indictment preferred against me for assaulting you, and the names of my bail are, G. H. of, &c. smith, and J. K. of, &c. taylor. Dated this ——— day of ———, A. D. 1812.

Your's, &c. C. D.

(r) Ante 1 vol. 343, &c. 57.

(r) Ante 1 vol. 343, &c. 57.
(s) Ante 1 vol. 343. See forms, (t) Ante 1 vol. 343. See a
Cro. C. C. 8th Ed. 298, 7th Ed. form, Toone Man. 43.

In* the King's Bench.

Middlesex.
The King
againstNotice of
putting in
bail before
Lord Ellen-
borough, or
some other
judge of K.
B. to an in-
dictment in
K. B.
[* 208]

C. D. indicted by the name of O. P.

Take notice, that the defendant will put in bail on Satur- day next, at eleven o'clock in the forenoon of the same day, before the right honourable Edward lord Ellenborough, lord chief justice of his majesty's court of king's bench, at West- minster, or such other judge of the said court as may then be at his chambers in Serjeant's inn, Chancery lane, London, for the appearance of the said defendant in the said court, to an indictment for certain misdemeanours, and to answer to the same, according to the course of the said court; and the names and additions of the bail are J. H. of No. 10, Hen- rietta street, Covent garden, in the county of Middlesex, es- quire, and J. O. of No. 10, Gray's inn, in the said county of Middlesex, gentleman. Dated the 11th day of May, 1814.

Your's, &c. O. P. solicitor for the defendant.

To Messrs. G. and R. solicitors for the prosecution.

Middlesex. Be it remembered that, on the ——— day of ———, in the 55th year of the reign of our sovereign lord George the third, by the grace of God, of the united king- dom of Great Britain and Ireland, king, defender of the faith, C. D. of, &c. esquire, E. F. of, &c. esquire, and G. H. of, &c. gentleman, came before me, sir Henry Dampier, knight, one of his majesty's justices of the court of king's bench, and acknowledged to owe our sovereign lord the king the several sums following, that is to say, the said C. D. the sum of 500/. and the said E. F. and G. H. the sum of 250/. each, of lawful money of Great Britain, to be levied upon their sever- al goods and chattels, lands and tenements, to his majesty's use, upon condition that if the said C. D. shall appear in his majesty's court of king's bench, at Westminster, on the first day of Trinity term, 1815, to an indictment for certain mis- demeanours, and answer the same, according to the course of the said court, and so from day to day, and not depart the court without leave, then this recognizance to be void, or else to remain in full force.

Taken and acknowledged the day and year first above said, at my chambers in Serjeant's inn, Chancery lane, London.

Before me, H. Dampier.

Police Office, Union Hall, Southwark,
Surrey, (to wit.) To G. H. a constable: and to the
keeper of his* majesty's gaol at Newington, in and for
the said county, or his deputy.

[* 209]
Commitment
by a justice
of the peace
of a party
apprehend-
ed after in-
dictment
found. (w).

(u) This is the common form Rep. 284.

on parchment. See ante 1 vol. (w) Ante 1 vol. 346.

348. and another form, Cowp.

Crim. Law.

VOL. IV.

C c

Whereas C. D. late of &c. [*describe addition as in warrant or indictment,*] is now brought before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, and charged and identified on the oath of A. B. with being the person who standeth indicted at the general (or general quarter) sessions of the peace, holden at —, in and for the said county, on the — day of —, now last, for, &c. [*state the offence concisely as in the commitments ante 57 to 114.*] To which indictment the said C. D. hath not yet appeared or pleaded, as appears to me by a certificate under the hand of L. M. esquire, clerk of — for the said county. These are, therefore, in his majesty's name, to command you, the said constable, to convey the said C. D. to the said keeper; and you the said keeper are hereby required to receive and safely keep him in your said gaol until he shall be thence discharged by due course of law: and for so doing this shall be your sufficient warrant. Given under my hand and seal this — day of —, A. D. 1816.

E. F. (L. S.)

For sending threatening letter after indictment found, on 32 Geo. II. c. 24. (x)

[*Commencement and conclusion as in last precedent.*] They standing indicted at the delivery of the king's gaol of Newgate, holden for the county of Middlesex, on the 13th day of January last, for knowingly and feloniously sending to one T. N. of, &c. baker, a certain letter in writing, without any name subscribed thereto, directed to the said T. N. demanding certain valuable things, to wit, six half-peck loaves and eight pounds of cheese, against the statute; upon which indictment they the said J. G. R. B. and R. G. have not as yet been arraigned or tried, as appears by a certificate under the hand writing of T. S. clerk of the session of gaol delivery. Hereof fail not at your peril.

Commitment of justice of peace upon an indictment found for want of bail.

[*Commencement as ante 208.*] Brought before me, E. F. esquire, one of his majesty's justices of the peace in and for the said county, by L. M. a constable, and charged before me the said justice, upon the oath of A. B. with being the identical person who was and now stands indicted in September sessions last for, &c. &c. To which indictment she has not yet appeared or pleaded, as appears to me by warrant under the hands of J. H. and T. L. esquires, two of his majesty's justices of the peace for the said county, signed in open session, and dated the 21st day of February last, (and it is ordered by the court, that the above named M. J. do give twenty-four hours notice of bail to Mr. J. of High-street, Shadwell, solicitor for the prosecutor, before the same be taken,). her therefore safely keep in your said custody for

(x) The statement of the offence will, in general, be as in the Commitments. Ante 57 to 114.

want of such sureties, or until she* shall be discharged by [* 210] due course of law: and for so doing this, &c.

[*Commencement as ante 208.*] Charged before me the said Commitment justice, upon the oath of A. B. with being the identical per- for burglary son who stands indicted at the delivery of the king's gaol of on indict- Newgate, holden for the county of Middlesex, on the 6th at Old Bai- day of June last, for that he on the 23d day of March last, ley. about twelve in the night of the same day, with force and arms, at the parish of St. James, within the liberty of Westminster, the dwelling-house of J. R. there situate, feloniously and burglariously did break and enter with intent to steal, and stealing therein one hundred and twenty yards of carpeting of the value of eighteen pounds, of the goods of the said J. R. against the peace, &c. upon which indictment the said W. H. hath not yet been arraigned or tried, as appears by a certificate under the hand of T. S. esquire, clerk of the said session of gaol delivery, him therefore safely keep in your custody until, &c.

[*Commencement as ante 208.*] Receive into your custody the Upon an in- body of R. S. herewith sent you, brought before me, J. U. dictment on esquire, one of his majesty's justices of the peace for the certificate of said county, by W. X. a constable. He the said R. S. stand- defendant's ing indicted at the last July sessions held for the said county non appear- at Hicks's-hall, for assaulting, beating, and wounding one Y. Z. to which indictment he hath not as yet appeared or plead- ance. ed, as appears to me by a certificate dated the 4th day of October, 1773, under the hand of T. B. esquire, clerk of the peace for the said county of Middlesex for want of sureties, and him safely keep, &c.

Receive, &c. E. J. brought before me, A. B. esquire, by Commitment C. D. constable, she standing indicted at the last general upon an in- quarter sessions of the peace held for the said county of dictment Middlesex, for a certain trespass and assault upon one M. found for assault. M. spinster, as appears to me by a warrant, dated in open sessions, the sixteenth day of April, one thousand seven hundred and seventy-four, under the hands of J. B. and D. W. esquires, for want of sureties, and her safely keep, &c.

To the keeper of his majesty's gaol of Newgate, or his Commitment deputy. by way of de-

Middlesex, (to wit.) Detain in your custody the body of tainer after James Lemons, it appearing to me, James Read, esquire, one indictment of his majesty's justices of the peace for the said county, that found he, the said James Lemons, stands indicted at the general against de- session of oyer and terminer, holden at Kingston-upon- fendant for feloniously receiving Thames, in and for the county of Surrey, on Monday the goods, felo- 29th day of March last, for feloniously receiving, in the said niously and county of Surrey, two silver cups of the value of 6l. one burglarious- ly stolen, the watch of the value of five pounds, fifty silver spoons of the principal fe- value of 40l. one silver pannakin, of the value of 1l. one lon having pair of snuffers of the value of 15s. one knife of the value* of [* 211]

been convicted.
ed.

5s. one pocket book of the value of five shillings, one pair of scissars of the value of 1s. and one pair of tweezers of the value of 1s. of the goods and chattels of William Wilkinson, well knowing the same to have been feloniously and burglariously stolen, taken, and carried away; Thomas Norman and William Haselden, otherwise called Samuel Moss, the persons who feloniously and burglariously stole, took, and carried away the said goods and chattels, having been convicted thereof, against the statute, &c.; and for your so doing, this shall be your sufficient warrant. Given under my hand and seal this 3d day of May, 1813.

Middlesex.

The King against Edward Rich.

Brief on motion to move for bringing up defendant, and charging him with indictment

Please to move that the above defendant be brought up and charged with the indictment against him for publishing certain obscene libels.

Mr. Common Serjeant.
Newman Knowlys.

Rule to bring defendant into court.

Redit and Foot, solicitors.

Jones, clerk in court.

Wednesday next after fifteen days of Saint Hilary, in the forty-seventh year of king George the third.

Middlesex. The King against Edward Rich.

It is ordered that the keeper of his majesty's gaol of Newgate, or his deputy, do bring into this court the body of the defendant, on Thursday next after the morrow of the purification of the Blessed Virgin Mary.

Side Bar.

By the court.

Commitment by court of K. B. on misdemeanor for trial, upon plea of not guilty, for want of bail.

Monday next after three weeks of the Holy Trinity, in the forty-sixth year of king George the third.

Middlesex. The King against Edward Rich.

The defendant being brought here into court, in custody of one of the tipstaffs of this court, by virtue of the warrant issued in this prosecution, is now here in court charged with the indictment against him in this prosecution for certain misdemeanours, in publishing certain obscene libels; and having heard the said indictment read, he is asked by the court here whether he be guilty of the premises thereby charged upon him or not: whereupon he saith that he is not guilty thereof, and puts himself upon the country. And the coroner and attorney of this court join issue. And the said defendant having no bail is committed to the custody of the keeper of his majesty's gaol of Newgate, for want of bail for his appearance in this court upon the return of the postea, in case he shall be convicted; and so from day to day, and not to depart this court* without leave, to be by the said keeper kept in safe custody until he shall be from thence discharged by due course of law.

[* 212]

On the motion of Mr. Common Serjeant of London.

By the court.

June 23d, left the original with the turnkey, felonside of Newgate.

George, &c. To the sheriff of ——— greeting: we com- Venire ad
mand you that you omit not, by reason of any liberty in your respon-
bailiwick, but that you enter therein, and cause to come be- dum, from
fore our justices of oyer and terminer, at the next session of sessions of
oyer and terminer to be holden in and for your county, John miner to an-
Swan, late of, &c. to answer us concerning a certain tres- swer indict-
pass, assault, and misdemeanour, whereof he stands indicted, ment for an
and have you then there this writ. Witness Sir James Eyre, assault. (y)
knight, at Okeham, the 12th day of February, in the 20th
year of our reign. Blencowe.

This writ ought to be tested by the principal judge in the
commission. Dick. J. Process.

George the third, by the grace of God, of the united king- The like at
dom of Great Britain and Ireland, king, defender of the faith, the sessions,
to the sheriff of the county of Westmoreland greeting: we to answer
command you that you omit not by reason of any liberty in articles of
your bailiwick, but that you cause A. O. of ———, in your peace. (z)
said county, yeoman, to come before our justices assigned to
keep our peace, and also to hear and determine divers felo-
nies, trespasses, and other misdemeanours in the said county,
committed at ———, in your said county, on the ——— day
of ——— next ensuing, to answer unto us upon certain ar-
ticles presented against him the said A. O. and have you
there then this precept. Witness J. P. and K. P. at ———,
the ——— day of ———, in the ——— year of our reign.

George the third, by the grace of God, of the united king- Distringas
dom of Great Britain and Ireland, king, defender of the faith, from justices
to the sheriff of ——— greeting: we command you that of oyer and
you omit not, by reason of any liberty in your bailiwick, terminer. (a)
but that you enter therein and distrain C. D. of, &c. in your
county, yeoman, and E. F. of, &c. by all their lands and
chattels in your bailiwick, so that neither they nor any by
them put their hands to the same, until you have another
command from us, and that you answer us for the issues of the
same, so that they appear before our justices assigned to in-
quire of, hear, and determine all treasons, murthers, felonies,
trespasses, and other evil doings, offences, and injuries,
whatsoever, committed in your county, at the next general
session of* oyer and terminer, to be holden in and for your [* 213]
said county, to answer us concerning certain trespasses, nui-
sances, contempts, and misdemeanours, whereof they stand
indicted: and have you there this writ. Witness ———, at
———, the ——— day of ———, in the ——— year of
our reign.

(y) Ante. 1 vol. 350, 1 Dalt. c. 193, p. 530. Will. J. Process.
J. c. 193, p. 530. Burn, J. Pro- (a) See ante, 1 vol. 351. Burn,
cess. Will. J. Process. J. Process.

(z) Burn, J. Process. Dalt. J.

The like
against inha-
bitants of a
parish, on in-
dictment for
not repairing
highway, or
other nui-
sance.

George, &c. To the sheriff of ——— greeting: we com-
mand you that you omit not, by reason of any liberty in your
bailiwick, but that you enter therein, and distrain the inha-
bitants of the parish of ———, in your county, by all their
lands and chattels in your bailiwick, so that neither they nor
any by them put their hands to the same, until you have ano-
ther command from us, and that you answer us for the issues
of the same, so that they appear before our justices assigned
to inquire of, hear, and determine all treasons, murthers, fe-
lonies, trespasses, and other evil doings, offences, and injuries
whatsoever, committed in your said county, at the next ses-
sion of oyer and terminer to be holden for your said county,
to answer us concerning trespasses, nuisances, contempts,
and misdemeanours whereof they stand indicted: and have
you there this writ. Witness, &c.

Distringas at
sessions. (b)

George the third, by the grace of God, of the united king-
dom of Great Britain and Ireland, king, defender of the faith,
to the sheriff of the county of ——— greeting: we command
you that you omit not, by reason of any liberty in your baili-
wick, but that you enter the same and distrain A. O. of ———,
in your county, yeoman, by all his lands and tenements, &c.
and that you answer for the issues thereof, &c. and that you
have his body before our justices, assigned, [*and so on, as
before in the Venire. The Alias and Pluries Distringas are
the same as the above, except that, after the words "we com-
mand you," "as before we commanded you," for an alias;
or, "as oftentimes we have commanded you," for a pluries,
are inserted.*]

Entry of
award of
venire. (c)

Whereupon it was commanded to the said sheriff, that he
omit not, &c. but that he cause to come the said C. D. to an-
swer, &c.

Entry of
award of
distringas.
(d)

Whereupon it was commanded to the said sheriff that he
omit not, but that he distrain the said C. D. by all his lands,
&c.

Capias from
sessions of
oyer and ter-
miner, and
gaol delive-
ry, on in-
dictment for
felony. (e)
[* 214]

George, &c. To the sheriff of ——— greeting; we com-
mand you that you omit not by reason of any liberty in your
bailiwick, but that you enter therein, and take I. S. and I. W.
late, &c. if they may be found in your bailiwick, and them
safely keep, so that you may have their bodies before our
justices of oyer and terminer* and general gaol delivery, at the
next general session of oyer and terminer and *general* (f) gaol
delivery to be holden for your said county, to answer us con-
cerning certain felonies whereof they stand indicted; and

(b) 1 vol. 351. Dalt. J. c. 193. Trem. 350.
Burn. J. Process. Will. J. Pro-
cess. See Trem. 344, 349, 350.

(c) Co. Ent. 358. 6 T. R. 578.

(d) Co. Ent. 358. 6 T. R. 578.
See Entry of Pluries Distringas,

(e) Ante 1 vol. 350, 1. This is
the usual printed form on parch-
ment.

(f) The word general is omit-
ted in the printed forms.

have you then there this writ. Witness —, at —, the — day of —, in the — year of our reign.

George the third, by the grace of God of the united king-^{Capias from} dom of Great Britain and Ireland king, defender of the faith,^{the sessions.} to the sheriff of the county of — greeting. We command^(g) you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same, and take A. O. of —, in your county, yeoman, if he should be found in your bailiwick, and him cause to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county, committed at —, in your county, on the — day of —, next ensuing, to answer unto us concerning divers trespasses, contempts, and offences, of which he is indicted, and have you there then this writ. Witness J. P. and K. P. at — the — day of — in the — year of our reign. At which day A. S. knight, sheriff of the county aforesaid, returned that he is not found in his bailiwick, and he did not come. Therefore it is commanded as before.

George, &c. &c. greeting. We command you that you do^{Capias cum} not forbear, by reason of any liberty in your bailiwick, but^{proclama-} that you take W. W. late of, &c. if he shall be found in your^{tion, in or-} bailiwick, and him safely keep, so that you may have his bo-^{der to out-} dy before our justices of oyer and terminer and general gaol^{law defen-} delivery for your county of Lincoln, at the next sessions of^{dant in case} oyer and terminer and general gaol delivery, to be holden in^{of non-ap-} and for your said county, to answer to us concerning a cer-^{pearance at} tain felony whereof he stands indicted; and if you cannot^{assizes. (h)} find the said W. W. in your bailiwick, that then you cause public proclamation to be made in the open county court in your county, and at the general quarter sessions of the peace in your county, and at the door of the parish church where he is an inhabitant, that he be before our justices at the aforesaid session of oyer and terminer and general gaol delivery, to satisfy us concerning the felony aforesaid, and that you have then and there this writ. Witness, &c.

George, &c. To the sheriff —. We command you, as^{Alias capias.} we before commanded you, that you omit not, &c. [*as before.*]⁽ⁱ⁾ At which day,* &c. [*as before,*] and he did not come. There-^[* 215] fore it is commanded to the sheriff, as it hath been often commanded, &c.

George, &c. The sheriff, &c. We command you, as we have^{Pluries Ca-} often commanded you, that you omit not, &c. [*as before.*] At^{pias. (k)} which day A. S. knight, the sheriff aforesaid, returned that

(g) Dalt. J. c. 193, p. 530. Process. Dalt. J. c. 193, p. 531.
Will. J. Outlawry. Burn, J. Pro- Will. J. Outlawry.
cess.

(h) From Mr. Nicholl's MS. (k) Ante 1 vol. 351,2. Burn,
J. Process. Dalt. J. c. 193. p. 531.

(i) Ante 1 vol. 351,2. Burn, J. Will. J. Outlawry.

the aforesaid A. O. is not found in his bailiwick, and he did not come. Therefore it is commanded that you cause to be demanded, &c.

Writ of exigent to appear at assizes. (l)

George, &c. To the sheriff of L. greeting. We command you that you cause to be exacted W. W. late of Spalding, in your county, labourer, from county court to county court, until he shall be outlawed according to the law and custom of England if he shall not appear: and if he shall appear, that then you take him, and him safely keep, so that you may have his body before our justices of oyer and terminer and general gaol delivery for your county of Lincoln, at the next general sessions of oyer and terminer and general gaol delivery, to be holden in and for your said county next after the 1st day of March next ensuing, to answer to us concerning a certain felony whereof he stands indicted, and whereupon you have returned unto us that the said W. W. is not found in your bailiwick, and that you have then there this writ. Witness, &c.

The like in another form, to appear at sessions. (m)

George, &c. To the sheriff, &c. greeting. We command you that you cause A. O. of —, in your county, yeoman, to be demanded, until by the law and custom of our kingdom of England he be outlawed, if he shall not appear; and if he shall appear, that then you take him and cause him to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanours in your said county committed, at the general quarter sessions of the peace of your county next after the feast of — next ensuing, to be held wheresoever in the same county the said sessions shall happen to be holden, to answer unto us of divers trespasses, contempts, and offences, of which he is indicted, and have you then there this writ. Witness, sir J. P. baronet, at —, in the said county, the — day of — in the — year of our reign.

Writ of proclamation to appear at session. (n)
[* 216]

George, &c. To the sheriff of M. greeting. Whereas, by our writ, we have lately commanded you that you cause O. O. late of* the parish of —, in your county, yeoman, to be demanded (o) from county court to county court, until, according to the law and custom of our kingdom of England, he be outlawed if he shall not appear; and if he shall appear, that then you take him, and him keep so that you may have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and misdemeanours in our said county committed, at the general quarter sessions of the peace of our county, next after the

(l) This form is from Mr. Nicholl's Precedents. lawry.

(m) Dalt. J. c. 193, p. 531. (n) Ante 1 vol. Will. J. See writ of exigent, 354.

Will. J. Outlawry. Burn, J. Out- (o) As in writ, quære "exacted."

feast of — next ensuing, wheresoever in the same county the said sessions shall happen to be holden, to answer unto us of divers felonies, trespasses, contempts, and offences, of which he is indicted: we therefore command you, that pursuant to the statute made for such purpose, in the fourth and fifth years of the reign of their late majesties William and Mary, late king and queen of England, you cause the said O. O. to be proclaimed three several days, according to the form of the statute made in the thirty-first year of Elizabeth, late queen of England, (one of the said proclamations to be made at or near the most usual church-door of the parish where the said O. O. is an inhabitant), that he render himself to you so that you may have his body before our justices aforesaid, at the time aforesaid to answer unto us of the said trespasses, contempts and offences of which he is indicted, and have you there then this writ. Witness, sir J. P. baronet, at —, in the said county, the — day of —, in the — year of our reign.

Charles, &c. To the sheriff of the county of Cambridge, greeting. Whereas C. D. of —, in your county, yeoman, hath come before E. F. esquire, of, &c. and hath found sufficient sureties for being before the keepers of our peace and our justices assigned to hold the general sessions of our peace at —, on the — day of —, &c. to answer us of certain felonies whereof he has been indicted; therefore we command you that you altogether cease from further exacting the said C. D. to any county, or imprisoning, or in any wise molesting him on that occasion, and have there then this writ. Witness W. M. at H. on the — day of —, in the — year of our reign. Supersedeas of an exigent. (p)

The within named J. Y. J. Y. and J. Y. are not, nor is either of them found in my bailiwick. Return to capias. (q)

John Lethbridge, sheriff of Somerset. [* 217]

By* virtue of this writ to me directed, I have taken the bodies of the within named A. B. and C. D. whom I have before the king's justices within named, at the day and place as within I am commanded; but the within named E. F. and G. H. are not, nor is either of them found in my bailiwick. Return of cepi corpus to capias at assizes. (r)

The answer of, &c.

I hereby humbly certify to the justices within named, that the within named J. Y., J. Y. and J. Y. are not, nor is either of them found in my bailiwick. Return to alias capias. (s)

John Lethbridge, sheriff of Somerset.

(p) Ante 1 vol. 354, see form Dalt. J. c. 176, p. 478. The Defendant may, on bailable offences, set the outlawry aside, if he show that he procured a supersedeas before the last exaction. Ante 1 vol. 354. 368.

Crim. Law.

(q) Ante, 1 vol. 351, 138, 9; see form 4 T. R. 523.

(r) Ante, 1 vol. 351, 357. Imp. Off. Sher. 362, see writ of capias ante 198. 213, 4.

(s) Ante, 1 vol. 351, 357; and see form 4 T. R. 524.

Return to
pluries ca-
pias. (t)

I do hereby humbly certify, that the within named J. Y. J. Y. and J. Y. are not, nor is any or either of them found in my bailiwick.

Geo. Templer, sheriff.

Return to
writ of exi-
gentante, of
five exac-
tions, and
coroners'
judgment of
outlawry. (u)

By virtue of this writ to me directed at my court, held at the castle of Lincoln, in and for the county of Lincoln, on the 4th day of October, in the 9th year of the reign of our sovereign lord the king, I first caused the within named W. W. to be called, and he hath not appeared, and at my county court, held at the said castle of Lincoln, in and for the said county, on the 1st day of Nov. in the 10th year of the reign aforesaid, I secondly caused the said W. W. to be called, and he hath not appeared; and at my county court, held at the castle of Lincoln, in and for the said county, on the 29th day of Nov. in the 10th year aforesaid, I thirdly caused the said W. W. to be called, and he hath not appeared; and at my county court held at the said castle of Lincoln, in and for the said county, on the 27th day of Dec. in the 10th year aforesaid, I fourthly caused the said W. W. to be called, and he hath not appeared; and at my county court held at the said castle of Lincoln, in and for the said county, on the 24th day of Jan. in the 10th year aforesaid, I fifthly caused the said W. W. to be called and he hath not appeared. Therefore the said W. W. by the judgment of Thos. Tomlinson, John Coggan, John Inett, and John Everett, four of the coroners of our said lord the king for the said county, according to the laws and customs of the kingdom of England, of our said lord the king, is outlawed.

J. H. esq. sheriff.

[* 218]
The like re-
turn to writ
of exigent of
five exac-
tions, and
judgment of
outlawry,
with names
of coroners
subscribed.
(w)

At* my county court of _____ (*naming the county,*) held for the said county of _____ at _____ in the county aforesaid, on the _____ day of _____, in the year within written, the within named O. O. was a first time demanded, and did not appear, and at my county court of _____ held for the said county of _____ at _____ aforesaid, in the county aforesaid, on the _____ day of _____ in the year aforesaid, the said O. O. was a second time demanded, and did not appear, and at my county court of _____ held for the said county of _____ at _____ aforesaid, in the county aforesaid, on

(t) Ante, 1 vol. 352, 356; and see form 4 T. R. 525.

(u) Ante, 1 vol. 353, 356, 7, 8. This form is from Mr. Nicholl's MS. Precedents, 4 T. R. 526, 7, 530, and see the following forms held sufficient.

(w) See form, Williams, J. Outlawry. See last precedent, and ante 1 vol. 357, 8. If some of the exactions were during the shrievalty of one sheriff, and

some in the time of his successor, there must be two returns indorsed on the writ; as for instance, if there were three in the time of the former sheriff, such three exactions must, as in the following precedents, be returned by him in the above form, concluding thus: The answer of A. B. esq. sheriff. And then, immediately after such return, the succeeding sheriff is to return

the — day of — in the year aforesaid, the said O. O. was a third time demanded, and did not appear, and at my county court of — held for the said county of — at — aforesaid, in the county aforesaid, on the — day of — in the year aforesaid, the said O. O. was a fourth time demanded, and did not appear, and at my county court of — held for the said county of — at — aforesaid, in the county aforesaid, on the — day of — in the year aforesaid, the said O. O. was a fifth time demanded, and did not appear.

Therefore, by the judgment of C. C. esq. and S. C. gentlemen, coroners of our sovereign lord the king for the county aforesaid, the said O. O. according to the laws and customs of this realm is outlawed.

C. C., S. C., Coroners.

The answer of A. B. esq. Sheriff.

I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned, that this writ was delivered to me on the twenty-eighth day of December, in the thirtieth year of the reign of our sovereign lord, George the third, king of Great Britain, &c.; and that after the receipt of the said writ, and by virtue thereof, at my county court of Somerset, holden at Ivelchester,* in and for the county of Somerset, within written, on Wednesday, the twenty-seventh day of January, in the thirtieth year of the reign of our said lord the king, the within named John Yandell, James Yandell, and Joseph Yandell, were first called and did not appear, nor did any, or either of them appear. And that afterwards, in my county court of Somerset, on Wednesday, the twenty-fourth day of February, in the thirtieth year of the reign of our said lord the king, the within named John Yandell, James Yandell, and Joseph Yandell, were a second time called and did not appear, nor did any or either of them appear.

George Templer, esquire, sheriff of the county of Somerset.

I do hereby certify to the justices of our said lord the king of oyer and terminer within mentioned, that this writ, as it is above indorsed, was delivered to me the under named present sheriff of the county of Somerset, by the above named late sheriff, at the time of his going out of his office, and that afterwards, by virtue of the said writ at my county court of Somerset, holden at Ivelchester, in and for the county of Somerset, within written, on Wednesday, the twenty-fourth

Return to writ of exigent of two exactions by former sheriff, and one by the present. (x) [* 219]

what he may have done in the execution of the writ in the following form, or in the following precedents. This writ, as above indorsed, was delivered to me, the under-named present sheriff, by the above-named late sheriff, at his going out of office. At my

county of —, &c. [*proceeding as before directed, with respect to the return of the remaining exactions and judgment.*] The answer of C. D. esq. sheriff.

(x) Ante 1 vol. 353, 4. 357, 8, 4 T. R. 526. Same form, Imp. Off. Sheriff, 3 Ed. 326.

day of March, in the thirtieth year of the reign of our said lord the king, the within named John Yandell, James Yandell, and Joseph Yandell, were a third time called and did not appear, nor did any or either of them appear.

John Stephenson, esq. sheriff of the county of Somerset.
 I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned, that this writ was delivered to me on the 28th day of December, in the thirtieth year of the reign of our sovereign lord, George the third, king of Great Britain, and so forth; and that after the receipt of the said writ, and by virtue thereof, at my county court of Somerset, holden at Ivelchester, in and for the county of Somerset, within written, on Wednesday, the 27th day of January, in the thirtieth year of the reign of our said lord the king, I caused the first proclamation to be made in open court in the said county, that the within named John Yandell, James Yandell, and Joseph Yandell, should render themselves to me, so that I might have their bodies before the justices of our lord the king, within written, at the next assizes and general session of oyer and terminer and gaol delivery to be holden for the said county, to answer our said lord the king concerning certain felonies, whereof they are indicted, as by this writ I am commanded, and the within named John Yandell, James Yandell, and Joseph Yandell, are not, nor are any or either of them, found in my bailiwick.

Return to writ of proclamation of one proclamation in county court by former sheriff, who delivered over writ to present, with such return. (y)

[* 220]

George Templer, esquire, sheriff of the county of Somerset.
 I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned, that this writ, as it is above indorsed, was delivered to me, the undernamed present sheriff of the county of Somerset, by the abovenamed late sheriff, at the time of his going out of his office.

John Stephenson, esquire, sheriff of the said county of Somerset.

I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned, that this writ was delivered to me on the 28th day of March, in the thirtieth year of the reign of our sovereign lord, George the third, king of Great Britain, &c. and that after the receipt of the said writ, and by virtue thereof, at my county court of Somerset, holden at Ivelchester, in and for the county of Somerset, within written, on Wednesday, the twenty-first day of April, in the thirtieth year of the reign of our said lord the king, the within named John Yandell, James Yandell, and Joseph Yandell, were a fourth time called, and did not appear, nor did any or either of them appear; and that afterwards,

Return to allocatur exigent of the 4th and 5th exactions and judgment of outlawry. (z)

(y) Ante, 1 vol. 353, 4. 357, 8.
 4 T. R. 527. Imp. Off. Sher. 3
 Ed. 326.

(z) Ante, 1 vol. 353, 4, 347,
 4 T. R. 526. Imp. Off. Sher. 3
 Ed. 326.

at my county court of Somerset, holden at Ivelchester, in and for the said county of Somerset, on Wednesday, the 19th day of May, in the thirtieth year of the reign of our said lord the king, the within named John Yandell, James Yandell, and Joseph Yandell, were a fifth time called and did not appear, nor did any or either of them appear: therefore, by the judgment of Daniel Follett Scadding, gentleman, and Peter Layng, gentleman, coroners of our said lord the king, of the said county of Somerset, and according to the laws and customs of England, the said John Yandell, James Yandell, and Joseph Yandell, are outlawed, and each of them is severally outlawed. Judgment of outlawry.

John Stephenson, sheriff of the county of Somerset.

I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned, that this writ was delivered to me on the 28th day of March, in the thirtieth year of the reign of our sovereign lord George the third, king of Great Britain, and so forth, and that after the receipt of the said writ, and by virtue thereof, at the general quarter session of the peace, of our lord the king, holden for the county of Somerset, at the city of Wells, in the said county, on Wednesday, the 14th day of April, in the thirtieth* year of the reign of our said lord the king, I caused the second proclamation to be made in open court, that the within named John Yandell, James Yandell, and Joseph Yandell, should render themselves to me, so that I might have their bodies before the justices of our lord the king, within written, at the next assizes and general session of oyer and terminer and gaol delivery, to be holden for the said county, to answer our said lord the king concerning certain felonies whereof they are indicted, as by this writ I am commanded; and that afterwards, at the most usual door of the church of the parish of Brompton Ralph, within mentioned, on Sunday, the 18th day of April, in the thirtieth year of the reign of our said lord the king, immediately after divine service and sermon, (one month at least before the within named John Yandell, James Yandell, and Joseph Yandell were a fifth time called, and by virtue of a certain writ of exigent of our said lord the king,) I caused the third proclamation to be made, that the within named John Yandell, James Yandell, and Joseph Yandell, should render themselves to me, so that I might have their bodies before the justices of our lord the king within written, at the next assizes and general session of oyer and terminer and gaol delivery, to be holden for the said county, to answer our said lord the king concerning certain felonies whereof they are indicted, as by this writ I

Return to writ of allocatur, proclamation of the second and third proclamation at general quarter sessions and after service at church door.

(a) [* 221]

(a) Ante, 1 vol. 355, 6, 358, Sher. 3 Ed. 327.
4 T. R. 527, 538. Imp. Off.

am commanded; and the within named John Yandell, James Yandell, and Joseph Yandell, are not, nor are any or either of them found in my bailiwick.

Another re-
turn to writ
of proclama-
tion of three
proclama-
tions. (b)

[* 222]

Record of
outlawry at
the assizes,
where they
have been
two writs of
exigent and
two writs of
proclama-
tion (c)

Caption of
the assizes.

John Stephenson, sheriff of the said county of Somerset. By virtue of this writ, to me directed at my county court, held at the castle of Lincoln, in the county of Lincoln, within written, on the 4th day of October, in the ninth year of the reign of our sovereign lord the king, within written, I first proclaimed, and at the door of the parish church of Spalding, within written, where the within named W. W. lives, on Sunday, (to wit) the 8th day of October, in the ninth year aforesaid, immediately after divine service and sermon in the same church, I secondly proclaimed, and at the general quarter sessions of the peace held at Boston, in and for the parts of Holland, and in the said county, on Friday, the 6th day of October, in the ninth year aforesaid, I thirdly proclaimed the said W. W. that he may render himself to the sheriff of Lincolnshire, within written, so that the same sheriff may have his body before the justices within written, at the day and place within* contained, to answer our said lord the king of the felony within written, as this writ in itself demands and requires. I. H. esq. sheriff.

Somerset. Be it remembered that, at the session of oyer and terminer of our lord the king, holden at the castle of T. in and for the county of S. on Thursday, the 27th day of March, in the twenty-eighth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before sir B. H. knight, one of the barons of our lord the king, of his court of exchequer, F. B. esquire, one of the justices of our said lord the king, assigned to hold pleas before the king himself and others, their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his seal of Great Britain, to the said sir B. H. and F. B. and others their fellows, justices of our said lord the king, and to any two or more of them directed, (of whom one of them, the said sir B. H. and F. B. amongst others in the said letters patent named, our said lord the king willed to be one,) to inquire more fully the truth, by the oath of good and lawful men of the county aforesaid, and by other ways, means, and methods, by which they should or might better know (as well within liberties as without) by whom

(b) Ante, 1 vol. 354 to 521. 531. Hand. Prac. 436. See 356, 358. This was from Mr. Nicholl's MS. See the forms, ante 219, 220. a form of record of outlawry at session, Hand's Prac. 421, and of an outlawry after conviction

(c) Ante, 1 vol. 359 to 362, and the preceding forms of writs and returns. 4 T. R. on information in K. B. Hand/ 453, 6 T. R. 573.

the truth of the matter might be the better known and inquired into of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain and other kingdoms or dominions whatsoever, and of all murders, felonies, manslaughter, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligence, concealments, maintenances, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them, within the county aforesaid, (as well within liberties as without,) by whomsoever and in what manner soever done, committed or perpetrated, and by whom or to whom, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them or any of them in any manner whatsoever; and the said treasons, and other the premises, according to the laws and customs of England for this time to hear and determine, by the oath of sir J. T. sir P. H. baronets, sir T. J. knight, E. P. the younger, J. C. J. F. L. B. J.* A. J. S. H. W. S. H. W. F. J. S. J. C. J. W. E. T. H. S. L. A. B. P. M. R. R. G. R. T. L. S. R. B. G. D. T. S. and G. R. esquires, good and lawful men of the said county of S. now here sworn, and charged to inquire for our sovereign lord the king, for the body of the said county, it is presented in manner and form as followeth, that is to say, Somerset. The jurors, &c. [*here copy the indictment, see Hand. Prac.* The indictment. 437.] which said indictment the said justices afterwards, to wit, at the delivery of the gaol of our said lord the king of the said county of S. holden at the castle of T. aforesaid, in and for the said county of S. on, &c. before the justices of our said lord the king, assigned to deliver his gaol in the said county of S. aforesaid of the prisoners therein being, by their proper hands do deliver here in court of record, in form of law to be determined, &c. Whereupon, at the same session of oyer and terminer and gaol delivery of our said lord the king, holden at the castle of T. aforesaid, in and for the said county of S. on, &c. in the twenty-eighth year of the reign of, &c. before the same justices, and others their fellows, the sheriff of the said county of S. by a writ of our said lord the king, is commanded that he do not omit, by reason of any liberty in his county, but that he take the said J. Y. J. Y. and J. Y. if they shall be found in his bailiwick, and them safely keep, so that he have their bodies before the justices of our said lord the king, at the next assizes and general gaol delivery to be held for the said county, to answer our said lord the king for the said felonies whereof they stand indicted. At which said next assizes and general gaol delivery, to wit, at the assizes and general sessions of oyer and terminer, the defen-

[* 223]

Award of writ of *capias*.

Return that the defen-

dants are not
ound.

{* 224]

Award of :-
alias capias.

and general gaol delivery of our lord the king, holden at the city of W. in and for the county of S. on Monday the twenty-eighth day of July, in the twenty-eighth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before the right honourable sir J. E. knight, lord chief baron of his majesty's court of exchequer, S. B. esquire, one of the justices of our said lord the king, assigned to hold pleas before the king himself, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said sir J. E. and F. B. and others their fellows, justices of our said lord the king, and to any two or more of them directed, (of whom one of them, the said J. E. and F. B. amongst others in the said letters patent named, our said lord the king willed to be one,) to inquire more fully the truth, by the oath of good and lawful men of the county aforesaid, and by other ways, means, and methods, by which they should or might better know (as well within liberties as without) by whom the truth of the matter* might be the better known and inquired into, of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain and other kingdoms or dominions whatsoever; and of all murders, felonies, manslaughter, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other doings, offences and injuries whatsoever, and also the accessaries of them within the county aforesaid, (as well within liberties as without,) by whomsoever and in what manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what manner; and of all other articles and circumstances concerning the premises and every of them, or any of them, in any manner whatsoever, and the said treasons, and other the premises, according to the laws and customs of England for this time, to hear and determine; J. L. esquire, now sheriff of the said county of S. doth return the said writ, directed to the sheriff of the said county, thus indorsed, to wit, the within named J. Y. and J. Y. are not, nor is either of them found within my bailiwick, J. L. sheriff of S. Wherefore at the said last-mentioned assizes, and general session of oyer and terminer, and general gaol delivery of our said lord the king, holden at the city of W. aforesaid, in and for the county of S. on the said Monday, the said twenty-eighth day of July, in the twenty-eighth year of the reign of our said lord the king, before the said justices, and others their fellows, last above-mentioned, the sheriff of the said county of S. by another writ of our

said lord the king, is commanded as formerly he was commanded, that he omit not, by reason of any liberty in his bailiwick, but that he take the said J. Y. J. Y. and J. Y. if they should be found in his bailiwick, and them safely keep, so that he may have their bodies before the justices of our said lord the king at the next assizes and general gaol delivery to be holden for his county, to answer to our said lord the king concerning the said felonies of which they stand indicted. At which next assizes and general sessions of oyer and terminer, and general gaol delivery of our said lord the king, holden at T. in and for the county of S. on Friday the twenty-seventh day of March, in the twenty-ninth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before sir W. H. A. knight, one of the justices of our lord the king, assigned to hold pleas before the king himself, F. B. esquire, one other of the justices of our said lord the king,* assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said sir W. H. A. F. B. and others their fellows, justices of our said lord the king, and to any two or more of them directed, (of whom one of them, the said sir W. H. A. and F. B. amongst others in the said letters patent named, our said lord the king will- ed to be one,) to inquire more fully, &c. [*state the operative words of the commission, as ante 222.*] J. L. esquire, sheriff of the said county of S. doth return the said last-mentioned writ, directed to the sheriff of the said county, thus indorsed, to wit, I hereby humbly certify to the justices within named that the within named J. Y. J. Y. and J. Y. are not, nor is either of them found in my bailiwick. The answer of J. L. sheriff of S. Whereof at the said last-mentioned assizes and general sessions of oyer and terminer, and general gaol delivery of our said lord the king, holden at the castle of T. aforesaid, in and for the said county of S. on the said Friday, the twenty-seventh day of March, in the said twenty-ninth year of the reign of our said lord the king, before the said justices, and others their fellows, last above-mentioned, the sheriff of the said county of S. by another writ of our said lord the king, is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he take the said J. Y. J. Y. and J. Y. if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the justices of our said lord the king, at the next general gaol delivery to be holden for the said county, to answer to our said lord the king concerning the said felonies whereof they stand indicted. At which said next assizes and general gaol delivery, &c. [*the sheriff's return to this writ the same as the last, not found.*] Therefore at the said last-mentioned assizes and general session of oyer and terminer, and general gaol delivery of our said lord the king, so holden at B. aforesaid, in and for the said county of S. on the

Return there-
to that the
defendants
are not found

[* 225]

Award of
pluries con-
pias and
statement
of return
thereto.

Award of
writ of ex-
igent.

dants are not
ound.

[* 224]

Award of
alias capias.

and general gaol delivery of our lord the king, holden at the city of W. in and for the county of S. on Monday the twenty-eighth day of July, in the twenty-eighth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before the right honourable sir J. E. knight, lord chief baron of his majesty's court of exchequer, S. B. esquire, one of the justices of our said lord the king, assigned to hold pleas before the king himself, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said sir J. E. and F. B. and others their fellows, justices of our said lord the king, and to any two or more of them directed, (of whom one of them, the said J. E. and F. B. amongst others in the said letters patent named, our said lord the king willed to be one,) to inquire more fully the truth, by the oath of good and lawful men of the county aforesaid, and by other ways, means, and methods, by which they should or might better know (as well within liberties as without) by whom the truth of the matter* might be the better known and inquired into, of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain and other kingdoms or dominions whatsoever; and of all murders, felonies, manslaughterers, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other doings, offences and injuries whatsoever, and also the accessaries of them within the county aforesaid, (as well within liberties as without,) by whomsoever and in what manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what manner; and of all other articles and circumstances concerning the premises and every of them, or any of them, in any manner whatsoever, and the said treasons, and other the premises, according to the laws and customs of England for this time, to hear and determine; J. L. esquire, now sheriff of the said county of S. doth return the said writ, directed to the sheriff of the said county, thus indorsed, to wit, the within named J. Y. and J. Y. are not, nor is either of them found within my bailiwick, J. L. sheriff of S. Wherefore at the said last-mentioned assizes, and general session of oyer and terminer, and general gaol delivery of our said lord the king, holden at the city of W. aforesaid, in and for the county of S. on the said Monday, the said twenty-eighth day of July, in the twenty-eighth year of the reign of our said lord the king, before the said justices, and others their fellows, last above-mentioned, the sheriff of the said county of S. by another writ of our

said lord the king, is commanded as formerly he was commanded, that he omit not, by reason of any liberty in his bailiwick, but that he take the said J. Y. J. Y. and J. Y. if they should be found in his bailiwick, and them safely keep, so that he may have their bodies before the justices of our said lord the king at the next assizes and general gaol delivery to be holden for his county, to answer to our said lord the king concerning the said felonies of which they stand indicted. At which next assizes and general sessions of oyer and terminer, and general gaol delivery of our said lord the king, holden at T. in and for the county of S. on Friday the twenty-seventh day of March, in the twenty-ninth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before sir W. H. A. knight, one of the justices of our lord the king, assigned to hold pleas before the king himself, F. B. esquire, one other of the justices of our said lord the king,* assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said sir W. H. A. F. B. and others their fellows, justices of our said lord the king, and to any two or more of them directed, (of whom one of them, the said sir W. H. A. and F. B. amongst others in the said letters patent named, our said lord the king will- ed to be one,) to inquire more fully, &c. [*state the operative words of the commission, as ante 222.*] J. L. esquire, sheriff of the said county of S. doth return the said last-mentioned writ, directed to the sheriff of the said county, thus indorsed, to wit, I hereby humbly certify to the justices within named that the within named J. Y. J. Y. and J. Y. are not, nor is either of them found in my bailiwick. The answer of J. L. sheriff of S. Whereof at the said last-mentioned assizes and general sessions of oyer and terminer, and general gaol delivery of our said lord the king, holden at the castle of T. aforesaid, in and for the said county of S. on the said Friday, the twenty-seventh day of March, in the said twenty-ninth year of the reign of our said lord the king, before the said justices, and others their fellows, last above-mentioned, the sheriff of the said county of S. by another writ of our said lord the king, is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he take the said J. Y. J. Y. and J. Y. if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the justices of our said lord the king, at the next general gaol delivery to be holden for the said county, to answer to our said lord the king concerning the said felonies whereof they stand indicted. At which said next assizes and general gaol delivery, &c. [*the sheriff's return to this writ the same as the last, not found.*] Therefore at the said last-mentioned assizes and general session of oyer and terminer, and general gaol delivery of our said lord the king, so holden at B. aforesaid, in and for the said county of S. on the

Return there-
to that the
defendants
are not found

[* 225]

Award of
pluribus capi-
pias and
statement
of return
thereto.

Award of
writ of ex-
igent.

[* 226]

Award of
writ of pro-
clamations.Return to
the exigent
of three ex-
actions.

said Saturday, the fifteenth day of August, in the said twenty-ninth year of the reign of our said lord the king, before the said justices, and others their fellows, last above-mentioned, the sheriff of the said county of S. by another writ of our said lord the king, is commanded that he cause to be called the said J. Y. J. Y. and J. Y. from county court to county court, until they, according to the laws and customs of England, be outlawed, if they do not appear; and if they do appear, then that he take and keep them in safe custody, so that he have their bodies before the justices of our said lord the king assigned by letters patent, under his seal of Great Britain, to inquire of all treasons, murders, felonies, and other misdeeds, offences, and injuries whatsoever, committed within the county of S. and the same premises, to hear and determine,* according to the laws and customs of England, at the next assizes and general sessions of oyer and terminer and gaol delivery to be holden for his county, to answer our said lord the king concerning certain felonies whereof they are indicted, and whereof the said last-named sheriff hath returned now to the said justices of our said lord the king, that they the said J. Y. J. Y. and J. Y. are not, nor are any or either of them found in his bailiwick. And also at the said assizes and general sessions of oyer and terminer, and general gaol delivery, so holden at B. aforesaid, in and for the said county of S. on the said Saturday, the said fifteenth day of August, in the twenty-ninth year aforesaid, before the same justices, and others their fellows, last above-mentioned, the sheriff of the said county of S. by another writ of our said lord the king, is commanded that, by the statute in the thirty-first year of the reign of the late queen E. of England made and provided, he cause the said J. Y. J. Y. and J. Y. to be proclaimed three several days, according to the force of that statute, whereof one of the said proclamations is to be made in open court, in the sheriff's county, one other at the general quarter sessions of the peace to be holden for the said sheriff's county, and one other at or near the most usual door of the parish church of B. R. aforesaid, where they are inhabiting, that they render themselves to the said sheriff, so that he may have their bodies before the justices of our said lord the king, at the aforesaid next assizes and general session of oyer and terminer, and gaol delivery, to be holden for his county, to answer our said lord the king as aforesaid. At which said next assizes and general session of oyer and terminer, and general gaol delivery, holden at the castle of T. in and for the county of S. on Thursday the twenty-fifth day of March, in the thirtieth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before sir B. H. knight, one of the barons of our lord the king of his court of exchequer, sir R. P. knight, one other of the barons of our said lord the king of his said court of exchequer, and others their

fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said sir B. H. sir R. P. and others their fellows, justices of our said lord the king, and to any two or more of them directed, (of whom one of them, the said sir B. H. and sir R. P. amongst others in the said letters patent named, our said lord the king willed to be one,) to inquire more fully the truth, &c. [*state the operative words of the commission, as ante 222, 134, 5, 6, to the words, "for this time to hear and determine," and then proceed as follows, see also Hand. Prac. 445, 6.*], J. S. esquire, now sheriff of the said county of S. doth return the aforesaid writ of exigent, directed to the sheriff of the said county,* [* 227] thus indorsed, (to wit), I do hereby certify to the justices of our lord the king, of oyer and terminer, within mentioned, that this writ was delivered to me on the twenty-eighth day of December, in the thirtieth year of the reign of our sovereign lord George the third, king of Great Britain, and so forth, and that after the receipt of the said writ, and by virtue thereof, at my county of S. holden at I. in and for the county of S. within written, on Wednesday the twenty-seventh day of January, in the thirtieth year of the reign of our said lord the king, the within named J. Y., J. Y. and J. Y. were first called and did not appear, nor did any or either of them appear; and that afterwards at my county court of S. holden at J. in and for the said county of S. on Wednesday the twenty-fourth day of February, in the thirtieth year of the reign of our said lord the king, the within named J. Y., J. Y. and J. Y. were a second time called and did not appear, nor did any or either of them appear. ^{First exaction.} The answer of J. T. esquire, sheriff of the county of S. I do hereby certify to the justices of our said lord the king, of oyer and terminer within mentioned, that this writ, as it is above indorsed, was delivered to me, the under named present sheriff of the county of S. by the above named late sheriff at the time of his going out of his office, and that afterwards by virtue of the said writ, at my county court of S. holden at I. in and for the county of S. within written, on Wednesday the twenty-fourth day of March, in the thirtieth year of the reign of our said lord the king, the within named J. Y., J. Y. and J. Y. were a third time called and did not appear, nor did any or either of them appear. ^{Second exaction.} The answer of J. P. esquire, sheriff of the said county of S. And at the said last mentioned assizes and general session of oyer and terminer and gaol delivery, holden as last above said, at the castle of T. aforesaid, in and for the said county of S. on the said Thursday, the twenty-fifth day of March, in the thirtieth year aforesaid before the said justices, and others their fellow justices, last above mentioned, the said J. S. now sheriff of the said county of S. doth return the aforesaid writ of pro- ^{Third exaction.}

Return to the writ of the proclamation of one proclamation by late sheriff.

[* 228]
First proclamation at the county court by the late sheriff.

Award of writ allocatur exigent.

clamation directed to the sheriff of the said county, thus indorsed, (to wit) I do hereby certify to the justices of our lord the king, of oyer and terminer, within mentioned, that this writ was delivered to me on the twenty-eighth day of December, in the thirtieth year of the reign of our sovereign lord George the third, king of Great Britain, and so forth, and that after the receipt of the said writ, and by virtue thereof, at my county court of S. holden at I. in and for the county of S. within written, on Wednesday the twenty-seventh day of January, in the thirtieth year of the reign of our said lord the* king, I caused the first proclamation to be made in open court, in the said county, that the within named J. Y., J. Y. and J. Y. should render themselves to me, so that I might have their bodies before the justices of our lord the king within written, at the next assizes and general session of oyer and terminer and gaol delivery, to be holden for the said county, to answer our said lord the king concerning certain felonies whereof they are indicted, as by this writ I am commanded, and the within named J. Y., J. Y. and J. Y. are not nor are any or either of them found in my bailiwick. The answer of G. T. esquire, sheriff of the county of S. I do hereby certify to the justices of our lord the king, of oyer and terminer within mentioned, that this writ, as it is above indorsed and delivered to me the under named present sheriff of the county of S. by the above named late sheriff at the time of his going out of his office. The answer of J. S. esquire, sheriff of the said county of S. Whereupon at the said last mentioned assizes and general session of oyer and terminer and gaol delivery of our said lord the king, so holden at the castle of T. aforesaid, in and for the said county of S. on the aforesaid Thursday the twenty-fifth day of March, in the said thirtieth year of the reign of our said lord the king, before the said justices, and others their fellows, last above mentioned, the sheriff of the said county of S. by another writ of our said lord the king, is commanded, that allowing the three county courts of S. holden in and for the said county of S. at which the said J. Y., J. Y. and J. Y. were called and did not appear, nor did any or either of them appear as the late sheriff of the said county of S. and also the said now sheriff of the said county of S. have returned to the justices of our said lord the king, assigned by letters patent of our said lord the king, under his seal of Great Britain, to inquire of all treasons, murders, felonies, and other misdeeds, offences, and injuries whatsoever committed within the county of S. and the same premises to hear and determine according to the laws and customs of England, at the assizes and general session of oyer and terminer and gaol delivery, holden for the said county on the twenty-fifth day of March, then instant, he cause the said J. Y., J. Y. and J. Y. to be first called at the said sheriff's

next county court, until they, according to the laws and customs of England, be outlawed if they do not appear, and if they do appear, then that he take them and keep them in safe custody, so that he have their bodies before his majesty's justices, assigned by letters patent of our said lord the king, under his seal of Great Britain, to inquire of all treasons, murders, felonies, and other misdeeds, offences, and injuries* whatsoever, committed within the county of S. and the same premises to hear and determine, according to the laws and customs of England, at the assizes and general session of oyer and terminer, and gaol delivery, to be holden for his county, to answer our said lord the king concerning certain felonies whereof they are indicted. And also at the said assizes, and general session of oyer and terminer and gaol delivery so holden at the castle of T. aforesaid, in and for the said county of S. on the said Thursday the twenty-fifth day of March, in the thirtieth year aforesaid, before the said justices and others their fellows, last above mentioned, the sheriff of the said county of S. by another writ of our said lord the king, is commanded, that allowing the proclamation made by his majesty's late sheriff of the said county of S. at his court of S. holden in and for the said county of S. on Wednesday the twenty-seventh day of January then last past, that the said J. Y. J. Y. and J. Y. should render themselves to his said majesty's said late sheriff, so that he might have their bodies before the justices of our said lord the king, assigned by letters patent, under his majesty's seal of Great Britain, to enquire of all treasons, murders, felonies, and other misdeeds, offences, and injuries whatsoever, committed within the county of S. and the same premises to hear and determine, according to the laws and customs of England, at the assizes and general session of oyer and terminer and gaol delivery holden for the said county, on the twenty-fifth day of March then instant, he cause the said J. Y. J. Y. and J. Y. to be further proclaimed two several days according to the form of the statute in such case made and provided, one of the said proclamations to be made at the general quarter session of the peace to be holden for the said county, and the other of the said proclamations to be made at or near the most usual door of the parish church of B. R. aforesaid, where they are inhabiting, that they render themselves to the said sheriff, so that he may have their bodies before his majesty's justices at the next assizes and general session of oyer and terminer and gaol delivery, to be holden for his county, to answer our said lord the king concerning certain felonies whereof they are indicted. At which said next assizes and general session of oyer and terminer and gaol delivery, holden at the city of W. in and for the county of S. on Monday the ninth day of August, in the thirtieth year of the

[* 229]

Award of
allocatur
writ of pro-
clamations.Return to
the allocatur
exigent of
the fourth
and fifth ex.

action, and
judgment of
outlawry.

[* 230]

Fourth exac-
tion.

Fifth exac-
tion.

Coroner's
judgment of
outlawry.

Return to
the alloca-
tur Procla-
mation of the
second and
third procla-
mations.

reign of our sovereign lord George the third, king of Great Britain, &c. before J. H. esquire, one of the justices of our lord the king, of his court of common pleas, sir N. G. knight, one of the justices of our said lord the king, assigned to hold pleas* before the king himself, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to the said J. H. sir N. G. and others their fellows, justices of our said lord the king, and to any two or more of them directed, of whom one of them the said J. H. and sir N. G. amongst others in the said letters patent named, our said lord the king willed to be one, to enquire more fully the truth, by the oath of good and lawful men of the county aforesaid, and by other ways, means, and methods by which they should or might better know, as well within liberties as without, by whom the truth of the matter might be the better known and enquired into, of all treasons, &c. [*State operative words of commission, as ante, 222, 134, 5, 6, and in Hand. Prac. 450, and then proceed as follows:*] J. S. esquire, now sheriff of the said county of S. doth return the said last mentioned writ of exigent, directed to the sheriff of the said county, thus indorsed, to wit: I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned, that this writ was delivered me on the 28th day of March, in the thirtieth year of the reign of our sovereign lord George the third, king of Great Britain, &c. and that after the receipt of the said writ, and by virtue thereof, at my county court of S. holden at I. in and for the county of S. within written, on Wednesday the twenty-first day of April, in the thirtieth year of the reign of our said lord the king, the within named J. Y. J. Y. and J. Y. were a fourth time called and did not appear, nor did any or either of them appear; and that afterwards, at my county court of S. holden at I. in and for the said county of S. on W. the nineteenth day of May, in the thirtieth year of the reign of our said lord the king, the within named J. Y. J. Y. and J. Y. were a fifth time called and did not appear, nor did any or either of them appear; therefore, by the judgment of D. F. S. gentleman, and P. L. gentleman, coroners of our said lord the king of the said county of S. according to the laws and customs of England, the said J. Y. J. Y. and J. Y. are outlawed, and each of them is severally outlawed. The answer of J. S. sheriff of the said county of S. And also at the said last mentioned assizes and general session of oyer and terminer and gaol delivery holden as last aforesaid, at the city of W. aforesaid, in and for the said county of S. on the said Monday, the said ninth day of August, in the thirtieth year aforesaid, before the said justices, and others their fellows, justices last above mentioned, the said J. S. now sheriff of the said county of S. doth return the said last

mentioned writ of proclamation, directed to the sheriff of the said county, thus indorsed, to wit: I do hereby certify to the justices of our lord the king of oyer and terminer within mentioned that* this writ was delivered to me on the 28th day of March, in the thirtieth year of the reign of our sovereign lord George the third, king of Great Britain, &c. and that after the receipt of the said writ, and by virtue thereof, at the general quarter sessions of the peace of our lord the king, holden for the county of S. at the city of W. in the said county, on Wednesday the fourteenth day of April, in the thirtieth year of the reign of our said lord the king, I caused the second proclamation to be made in open court, that the within named J. Y. J. Y. and J. Y. should render themselves to me, so that I might have their bodies before the justices of our lord the king within written, at the next assizes and general session of oyer and terminer and gaol delivery, to be holden for the said county, to answer our said lord the king concerning certain felonies whereof they are indicted, as by this writ, I am commanded; and that afterwards, at the most usual door of the church of the parish of B. R. within mentioned, upon Sunday the eighteenth day of April, in the thirtieth year of the reign of our said lord the king, immediately after divine service and sermon, one month at least before the within mentioned J. Y. J. Y. and J. Y. were a fifth time called by virtue of a certain writ of exigent of our said lord the king, I caused the third proclamation to be made, that the within named J. Y. J. Y. and J. Y. should render themselves to me, so that I might have their bodies before the justices of our lord the king within written, at the next assizes and general session of oyer and terminer and gaol delivery, to be holden for the said county, to answer our said lord the king concerning certain felonies whereof they are indicted, as by this writ I am commanded; and the within named J. Y. J. Y. and J. Y. are not, nor any or either of them found in my bailiwick. The answer of J. S. sheriff of the said county of S.

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Second proclamation at the sessions.

Third proclamation at the church door.

By the court, Follett.

George the third, &c. To the sheriff, &c. greeting. We command you that you omit not by reason of any liberty in your county, but that you take A. O. late of, &c. in your county, labourer, if he shall be found within your county, and him cause safely to be kept so that you have his body before the keepers of our peace, and our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours in your county committed, at —, the — day of —, to stand right in our court before our justices aforesaid, upon a certain outlawry against him the said A. O.

Capias ut latum. (d)

(d) Ante 1 vol. 367. Burn, J. tion, Hand's Prac. 460, and next Process. See form of judge's warrant after outlawry on conviction.

shewn, nor does it appear by the return of the sheriff of Middlesex, that the said John Wilkes was a first, second, third, fourth, and fifth time exacted, at the county court, of the county of Middlesex, as by the law of the land he ought to have been before he was outlawed, therefore in that there is manifest error; there is also error in this, that in the record process and aforesaid, and in the publication of the outlawry aforesaid, it is no where expressly shewn, that the place called Brook-street, if any such there be, where the several county courts are supposed to have been held, at which the said John Wilkes is said to have been exacted, is in the county of Middlesex, or in any, or what other county, therefore in that there is manifest error; there is also error in this, that it does not appear that any judgment of outlawry was given or pronounced against the said John Wilkes, or if any such judgment was given or pronounced, in what form the same was so given or pronounced, as it ought to have done, in order that the legality and propriety of the said judgment might be seen and examined; but in the record and process aforesaid, and in the publication of the outlawry aforesaid, reference and relation only are had to some judgment not shewn or expressed, but supposed to have been before given against the said John Wilkes, therefore, in that there is manifest error. Wherefore, the said John Wilkes prays that the outlawry aforesaid, for the errors aforesaid, and other errors appearing in the record and process aforesaid, may be reversed and held for nothing, and that he may be restored to the common law, and to all which he hath lost by occasion of the outlawry aforesaid, &c. And Wm. De Grey, esquire, now attorney general of our present sovereign lord the king, present here in court, in his proper person, having heard the matters aforesaid, above assigned for error, for our said lord the king, saith, that neither in the record and process aforesaid nor in the publication of the aforesaid outlawry is there any error, and he prays that the court of our said lord the king, now here, may proceed to the examination as well of the record and process aforesaid, as of the matters aforesaid above assigned for error, and that the outlawry aforesaid, may in all things be affirmed.

Joinder in error.

Assignments of errors in an outlawry on an information for a misdemeanor. (k)

[* 235]

And hereupon the said J. A. comes in his proper person and says, that in the record of process, and also in the publication of the outlawry aforesaid, there is manifest error in this, to wit, that there is no sufficient information filed or exhibited against the said J. A. whereupon to ground the process of the outlawry aforesaid,* by reason whereof the said outlawry is void and of no effect or force whatever; there is also error in this, to wit, that the process of outlawry

(k) Ante 1 vol. 368,9. Hand's Prac. 477.

above set forth, is not sufficient in law to warrant or support the outlawry aforesaid; therefore in that there is manifest error; there is also error in this, to wit, that it does not appear that the sheriffs of the city of London returned to or upon the said writ of *capias ad satisfaciendum*, first above-mentioned, that the said J. A. was not found in their bailiwick, or that they made any return thereto; therefore in that there is manifest error; there is also error in this, to wit, that it is not stated, that the said J. A. did not appear, or that he made default at the return of the said several writs of *capias ad satisfaciendum* above-mentioned, or any or either of them; therefore in that there is manifest error; there is also error in this, to wit, that it is stated and appears that the said sheriffs of London were commanded as before, that they should take the said J. A. if he should be found in their bailiwick, and him safely keep, so that they might have his body before our said lord the king, at Westminster, on Saturday, next after the octave of the Holy Trinity, to satisfy our said lord the king, in manner and form aforesaid; but it is not stated, nor does it appear by whom, or by whose authority, or in what manner the said sheriffs of London were so commanded as aforesaid, or that they were so commanded by a writ of our said lord the king to them in that behalf directed; therefore in that there is manifest error; there is also error in this, to wit, that after stating that the said sheriffs of London were so commanded as aforesaid, it is stated and appears, that the sheriffs of the city of London aforesaid, returned the said last-mentioned writ, although no writ is previously stated to have issued, to which the said return can possibly apply: therefore in that there is manifest error; there is also error in this, to wit, that it is stated and appears by another writ of our said lord the king, the said sheriffs of London were commanded that they should take the said J. A. if he should be found in their bailiwick, and him safely keep, so that they might have his body before our said lord the king at Westminster, next after the morrow of All Souls, to satisfy our said lord the king in manner and form aforesaid, without stating that the said sheriffs of London were so commanded, as they had been oftentimes before commanded, or in any other manner whatsoever; therefore in that there is manifest error; there is also error in this, to wit, that no writ of *capias cum proclamatione*, is stated to have issued against the said J. A. nor any public proclamation to have been made thereupon, at any open county court, or at any general quarter sessions of the peace whatsoever, or at the door of any parish church* where the said J. A. was an inhabitant, according to the exigency of such writ; therefore in that there is manifest error; there is also error in this, to wit, that there is an intervening term between the teste and return of the said writ of exigent, which appears to have issued on

Friday next after the morrow of All Souls, in Michaelmas term, in the thirtieth year of the reign of our said lord the now king, returnable on Monday next after the morrow of the Ascension of our Lord, in Easter term then next following, passing over Hilary term, in the thirtieth year aforesaid; therefore in that there is manifest error; there is also error in this, to wit, that by the return to the said writ of exigent, it appears that the said J. A. was exacted at the husting of pleas of land, holden at the city of London, at the Guildhall within the said city, on Monday next before the feast of Saint Edward the king, but it does not appear thereby in what year of the reign of our said lord the king, or in what other year he was so exacted; therefore in that there is manifest error; wherefore, the said J. A. prays that the outlawry aforesaid, for the errors aforesaid, and other errors appearing in the record and process aforesaid, may be reversed and held for nothing, and that he may be restored to the common law, and to all which he hath lost by occasion of the outlawry aforesaid, &c.

Assignment
of errors in
an outlawry,
on an indictment
for felony against
the principals and the
accessary after the fact.
(1)

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And hereupon the said Jn. Y. Ja. Y. and Js. Y. come in their proper person, and severally say in the record and process, and also in the publication of the aforesaid outlawry, there is manifest error in this, that the said Jn. Y. Ja. Y. and Js. Y. are alledged to be a fifth time demanded and outlawed on the nineteenth day of May, in the the thirtieth year of the reign of our lord, the now king, when it appears by the writ of proclamation, which is alledged to have issued on Thursday, the 25th day of March, in the thirtieth year aforesaid, and the proclamation returned thereon, that they, the said Jn. Y. Ja. Y. and Js. Y. had a day given to render themselves to the sheriff, so that he might have their bodies before the justices therein named, until the assizes and general session of oyer and terminer and gaol delivery, holden for the county of S. next after the eighteenth day of April, in the thirtieth year aforesaid, being the ninth day of August, in the thirtieth year aforesaid, therefore in that there is manifest error; there is also error in this, that the writ of exigent appears to have issued, contrary to the statute in that case made and provided against the said Js. Y. who is only charged as accessary after the fact to a felony alledged to have been committed by the said Jn. Y. and Ja. Y.* and appears to be outlawed by the same judgment as that whereby the principals are outlawed, whereas by the law of the land, none shall be outlawed as accessors until the principal be attainted, but their exigent shall remain until such principal be attainted by outlawry or otherwise; therefore in that there is manifest error; there is also error in this, that

(1) Ante 1 vol. 368,9. Hand's Prac. 480.

the writ of *capias*, which is alledged to have issued on Monday, the twenty-eighth day of July, in the twenty-eighth year of the reign of our said lord the king, is not returnable, as the statute in that case made and provided directs, nor does it appear that there is compromised therein any command to the sheriff to cause to be seized the chattels of the said Jn. Y. Ja. Y. and Js. Y. and safely to keep them till the day of the said writ returned, as by the law of the land is required; neither is it alledged that the said Jn. Y. Ja. Y. and Js. Y. did not appear before the exigent was awarded, as by the law of the land ought to have been alledged, therefore in that there is manifest error; there is also error in this, that it is not expressly alledged that the said writs of proclamation, or either of them, were, or was delivered to the said sheriff, three months before the return of the same, as by law it ought to have been alledged; therefore in that there is manifest error: there is also error in this, that the said writs of proclamation do not appear to be issued or executed, as the statute in that case made and provided requires, therefore in that there is manifest error; there is also error in this, that it is not alledged in the return to the said writs of proclamation, that the said Jn. Y. Ja. Y. and Js. Y. did not after the making of each of the several proclamations required by the said writs, appear and render themselves to the said sheriff, as by the law of the land it ought to have been alledged, therefore in that there is manifest error. Wherefore the said Jn. Y. Ja. Y. and Js. Y. severally pray that the outlawry aforesaid for the errors aforesaid, and other errors appearing in the record and process aforesaid, may be reversed and held for nothing, and that they may severally be restored to the common law, and to all which they have lost by occasion of the outlawry aforesaid.

And now, that is to say on Tuesday next, after, &c. before our lord the king, at Westminster, came Maria Morley, daughter and heir of the said C. M. and who is within the age of 21 years, by Philip Ward, her guardian, now here specially admitted by the court of our lord the king. And immediately she brings here into court a certain writ of our said lord the king, now closed to the justices here directed, which follows in these words: Charles the second, by the grace of God, &c. to our justices assigned to hold* pleas before us, greeting. Because in the record and process, and also in the publication of outlawry published against C. M. now deceased, for certain felony and murder whereof he was indicted, and thereupon outlawed in the county of the city of York, and returnable before us, as it is said manifest error hath intervened, to the great damage of the said Mary Morley, daughter and heir of the said C. as by her complaint we are

Errors assigned by the heir, an infant, by guardian, and award of *scire facias* to *tertenants*.
(m)

[* 238]

informed. We being willing that the said error, if any there be, should be duly amended, and full and speedy justice done to the said Mary in this behalf, command you, that if the said outlawry be returned before us, as hath been said, then, inspecting the record and process aforesaid, which, as it is said, remain before us, and, calling before you those whom you shall see in this behalf should be summoned, you may further cause to be done therein for annulling the said outlawry, what as of right, and according to the law and custom of our kingdom of England, shall be to be done, witness myself, &c.

And upon this the said M. M. daughter and heir of the said C. by her guardian aforesaid, says, that in the record and process aforesaid, and also in the publication of the outlawry aforesaid, there is manifest error in this, to wit, that it does not appear by the indictment in the record aforesaid specified, in what part of the body of the said E. F. the said E. F. was wounded, as it ought. There is also manifest error in this, to wit, that in the indictment aforesaid, in the record aforesaid specified, it is expressed that the said C. M. on the 15th day of May, in the year of our Lord 1649, at the city of York aforesaid, feloniously, voluntarily, and of his malice aforethought, slew and murdered the said E. F. and yet in the record aforesaid it plainly appears that the said E. F. died in the 26th day of May, in the year aforesaid: there is also manifest error in this, to wit, that the said writ of our lord the king, of *capias cum proclamatione*, was not directed to the sheriffs of the county of York, in which county of York aforesaid C. M. dwelt at the time of the felony and murder as aforesaid, as per the record appears as it ought; and in that there is manifest error. Wherefore the said M. M. by her guardian, prays that the judgment and outlawry aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid found and being, may be reversed, annulled, and altogether held for nothing; and that she herself may be restored to the common law of the kingdom of England, and to all things which she hath lost by occasion of the outlawry aforesaid; and that the court here may proceed to the examination of the record and process aforesaid, &c. And because it seems to the court here necessary and expedient, that before* the court proceed in this behalf, as well the tenants of the lands and tenements which were of the said C. M. on the said 15th day of May, A. D. 1649, upon which day aforesaid the felony and murder aforesaid were committed, or at any time afterwards, as the lords, of whom the same lands and tenements mediately and immediately are held, should be warned to be before our lord the king to hear the record and proceedings aforesaid, if they will. Therefore it is commanded to the sheriffs of the city of York, and county of the city of York, that they omit not,

Award of
scire facias
to tertenants.
[* 239]

&c.; but that by good and lawful men of their aforesaid separate bailiwicks, they make known as well to the tenants of the lands and tenements which were of the said C. M. on the said 15th day of May, A. D. 1649 aforesaid, or at any time afterwards as to the lords of whom the same lands and tenements mediately and immediately are held, that they be before our lord the king in eight days of Saint Hilary where-soever, &c. to hear the record and process aforesaid, if, &c. The same day is given to the said M. M. by her guardian aforesaid, &c. At which day, to wit, eight days of Saint Hilary, before our said lord the king, at Westminster, come the aforesaid M. M. by her guardian aforesaid, and T. W. and R. H. sheriffs of the county of the city of York, aforesaid, return here into court the said writ of our said lord the king of scire facias, to them as it is said directed in this form. To our most serene lord the king, we, the underwritten, most humbly certify, that there are not in our bailiwick any tenants, nor any tenant of any lands or tenements which were of the within named C. M. on the 15th day of May, A. D. 1649 under written, on which day the felony and murder within mentioned are supposed to have been done, or at any time afterwards; nor are there any lords or lord of whom any lands or tenements aforesaid of the said C. M. are held mediately or immediately, to whom we can make known, as we are within commanded. The answer of —, esquires, sheriffs. And at the same day J. R. sheriff of the city of York, returned here into court the said writ of our lord the king of scire facias, to him as it is said directed in this form. To the lord the king within mentioned, I certify that there are no tenants, nor any tenant of any lands or tenements which were of the within named C. M. on the 15th day of May, A. D. 1649 within mentioned, at the time of the supposed felony and murder within mentioned, nor ever afterwards; nor are there any lords, nor is there any lord of whom any lands or tenements of the aforesaid C. M. are held mediately or immediately in my bailiwick, to whom I could make known as within I am commanded, —, esquire, sheriff.

Pleas* before our lord the king at Westminster, of [* 240] Michaelmas term, in the thirty-sixth year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth.

Amongst the pleas of the king. Roll.

Middlesex, (amongst the indictments of this term, No. 58.) Our lord the king hath sent to the keepers of his peace and justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within the

Record of reversal of an outlawry, on an indictment for murder at the sessions.
(n)

(n) Ante 1 vol. 369. Hand's Prac. 482.

Writ of cer-
tiorari.

Return.

[* 241]

Plea in bar
of the defen-
dant's being
abroad when

county of M. his writ, closed in these words, that is to say, George the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the keepers of our peace, and our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within our county of M. and to every of them, greeting: We being willing, for certain reasons, that all and singular indictments of whatsoever felonies and murders whereof R. E. is indicted before you, and all and singular records of outlawry concerning the same, and whereby and by virtue whereof, or some of them the said R. E. is outlawed before you as is said, be sent by you before us; do command you and every of you, that you or one of you do send under your seals, or the seal of one of you, before us at Westminster, immediately after the receipt of this our writ, all and singular the said indictments, and all and singular the said records of outlawry, with all things touching the same, as fully and perfectly as they have been taken by you or any of you, and now remain in the custody or power of you or any of you, together with this our writ, that we may further cause to be done thereon what of right and according to the laws and customs of England, we shall see fit to be done. Witness, Lloyd, Lord Kenyon, at Westminster, the thirteenth day of November, in the thirty-sixth year of our reign. By the court Templar, by rule of court. At the instance of the defendant. And hereupon, to wit, on Saturday next after fifteen days from the day of St. Martin, in this same term, before our said lord the king, at Westminster, W. M. esquire, one of the keepers of the peace and justices assigned as aforesaid, returned the said writ as followeth, that is to say, the execution of this writ appears by the schedule to this writ annexed. The answer of W. M. esquire, one of the justices within written. And now, that is to say, on the same Saturday next after fifteen days from the day of St. Martin, before our said lord the king at Westminster, cometh* the said R. E. in his proper persons, under the custody of the sheriff of M. and of the keeper of his majesty's gaol of Newgate, in whose custody the said R. E. now is a prisoner lawfully detained, being brought here into court in custody of the said sheriff and keeper, by virtue of a writ of habeas corpus in that behalf, and the said R. E. being asked, by the said court here, why the said court should not proceed to award execution against him, he the said R. E. prays oyer of the record and process aforesaid, and they are read to him, which being read and heard, the said R. E. says, that in the record and proceedings aforesaid, and also in the promulgation of the aforesaid outlawry, there s manifest error in this: that the said R. E. at the time of the promulgation of the aforesaid outlawry, and long before and afterwards, was in parts beyond the seas out of this kingdom, to wit, at Boulogne

our Mer, in France, so that he the said R. E. could not in any manner render himself or be before the justices named in the said writ of proclamation to answer our lord the king concerning the premises: and this he is ready to verify as the court shall direct, wherefore he prays judgment, and that the outlawry aforesaid for the said error be reversed, annulled, and held void, and that he be restored to the common law of this kingdom, and to all things which he has lost by reason of the outlawry aforesaid, and that he may be dismissed and discharged by the court here from the said outlawry. And sir J. S. knight, attorney-general of our present sovereign lord the king, present here in court in his proper person, having heard the plea of the said R. E. in manner and form aforesaid, above pleaded for our said lord the king, prayeth a day to answer thereunto, until on Monday next after fifteen days of St. Hilary, and it is granted to him before our said lord the king at Westminster, the same day is given as well to the said sir J. S. who for our said lord the king in this behalf prosecuteth, as to the said R. E. under the custody of the sheriff of M. and keeper aforesaid, to be held in safe custody in the mean time. On which said Monday next after fifteen days of Saint Hilary before our said lord the king at Westminster, come as well the said sir J. S. who for our said lord the king in this behalf prosecuteth, as the said R. E. in his proper person, under the custody of the sheriff of M. and keeper aforesaid, and the said R. E. now produceth here in court a certain writ of our said lord the king, to his justices here directed, which said writ followeth in these words, that is to say, George the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to our justices, appointed to hold pleas before us, greeting, forasmuch as* in the record and process, as also in the publication of an outlawry against R. E. late of the parish of E. B. in the county of M. labourer, on a certain indictment against the said R. E. for the murder of W. P. L. R. it is said manifest error hath intervened to the great damage of the said R. E. as by his complaint we are informed: we, willing that the said error, if any be, be duly amended, and full and speedy justice done to the said R. E. in this behalf, do command you, that if the said outlawry hath been returned before us, as hath been said, then inspecting the said record and process you cause further to be done therein, for annulling the said outlawry, as of right and according to the law and custom of England shall be meet to be done. Witness ourself at Westminster, the twenty-eighth day of January, in the thirty-sixth year of our reign. Holt. And hereupon the said R. E. comes in his proper person and says, that in the record and process and also in the publication of the aforesaid outlawry there is manifest error in this, that the said writ of *capias cum proclamatione*, alledged to be is-

the outlawry
was pro-
nounced.

Imparlance,

Writ of error.

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Assignment
of errors.

First.

Second.

Third.

Fourth.

Fifth.

Sixth.

Seventh.

Joinder in
error.

sued, does not require the said R. E. to render himself to the sheriff of M. so that the said sheriff might have his body before the justices therein named at the return of the said writ, as by law it ought to have done, but on the contrary thereof, requires the said R. E. to be done, the justices at the return of the said writ, which is contrary to the law of the land, therefore in that there is manifest error; there is also error in this, that the said R. E. is alledged to be a fifth time demanded and outlawed on the seventh day of September, in the twenty-sixth year of the reign of our lord the now king, when it appears by the said writ of capias cum proclamatione, and the said proclamation returned thereon, that he the said R. E. had a day given to be before the justices therein named until the general quarter session of the peace holden for the said county of M. next after the first day of October, in the twenty-sixth year aforesaid, being the fifth day of the said month of October, therefore in that there is manifest error: there is also error in this, that it is not expressly alledged that the said writ of proclamation was delivered to the said sheriff three months before the return of the same, as by law it ought to have been, therefore in that there is manifest error; there is also error in this, that the writ of capias which is alledged to have issued on the twentieth day of February, in the twenty-sixth year of the reign of our said lord the now king, is not returnable as the statute in that case made and provided directs, neither is it alledged that the said R. E. did not appear before the exigent was awarded, as by the law of the land ought to have been alledged, therefore in that there* is manifest error; there is also error in this, that the said writ of proclamation does not appear to be executed as the statute in that case made and provided requires; therefore in that there is manifest error; there is also error in this, that it is not shewn, nor does it appear by the return of the sheriff of M. to the said writ of capias cum proclamatione, that the sheriff of M. did cause proclamation to be made in his open county court of the said county of M. according to the exigency of the said writ of capias cum proclamatione, therefore in that there is manifest error; there is also error in this, that it is not alledged that the said R. E. was a second, third, fourth, or fifth time exacted or demanded at the sheriff's county court held in and for the county of M. as by the law of the land ought to have been alledged; therefore in that there is manifest error: wherefore the said R. E. prays that the outlawry aforesaid, for the errors aforesaid, and other the errors appearing in the record and process aforesaid, may be reversed and held for nothing, and that he be restored to the common law and to all things which he hath lost by occasion of the outlawry aforesaid, and that he be dismissed and discharged by the court here from the said outlawry. And sir J. S. knight,

attorney-general of our present sovereign lord the king, present here in court in his proper person, having heard the matters aforesaid above assigned for error, for our said lord the king, saith, that neither in the record and process, nor in the publication of the aforesaid outlawry, is there any error; and he prays that the court of our said lord the king now here, may proceed to the examination as well of the record and process aforesaid as also of the several causes aforesaid above assigned for error, and that the outlawry aforesaid may in all things be affirmed. Whereupon all and singular the premises being seen and fully understood by the court of our said lord the king now here, upon mature deliberation had here in court, it is considered and adjudged by the said court here, that the outlawry aforesaid for the errors aforesaid, and other errors appearing in the record and process aforesaid, be reversed, annulled, and held for nothing, and that he the said R. E. be restored to the common law of England, and to all he has lost by occasion of the outlawry aforesaid; and, as to the outlawry aforesaid, that he depart hence without day.

Judgment of reversal. (o).

CHAPTER* IX.

[* 244]

PROCEEDINGS ON CERTIORARI.

To S. B. esq. deputy recorder, and one of his majesty's justices of the peace, in and for the town of F. in the county of C.

SIR,

You having on the 29th day of July, 1778, taken the examination on oath of A. L. late of the town of F. upon a

Notice according to 13 Geo. II. c 18. s. 5. to a justice of the peace, of intention to move for a

certiorari to
remove pass
warrant. (a)

[* 245]

supposed act of vagrancy, and upon that examination made a pass warrant under your hand and seal, (as deputy recorder of the said town of F.) for the passing and removing of the said A. L. the supposed vagrant from F. aforesaid, to the parish of St. M. in the town and county of S. there to be provided for according to law. And the said A. L. the supposed vagrant, by virtue of the said pass warrant having been carried and conveyed to the said parish of St. M. when in fact the said A. L. the supposed vagrant hath not, nor ever had, any legal settlement in the said parish of St. M. And the said examination and pass warrant being illegal and irregular,* and the inhabitants of the said parish of St. M. being resolved to seek a remedy for the great burden, charge, and detriment which they have sustained by the said removal of the said A. L. into the said parish of St. M. I do hereby, on the part and behalf of the inhabitants of the said parish of St. M. according to the form of the statute in such case made and provided, give you notice that his majesty's court of king's bench will in six days from the time of your being served with this notice, or as soon after as counsel can be heard, be moved on the behalf of the inhabitants of the said parish of St. M. for a writ of certiorari to issue out of the said court, and be directed to the proper officers of the quarter sessions of the peace, in and for the said county of C. for the removal of the record of the duplicates of the said examination and pass warrant into his majesty's said court of king's bench, dated this — day of —, &c.

Your humble servant, W. D.

The like in
another
form. (b)

solicitor for the inhabitants of the said parish of St. M.
To G. H. esquire, one of his majesty's justices of the peace
in and for the — (as the case may be.)

Whereas you did on the — day of — in the year of our Lord — take the examinations of — and — and upon such examinations as aforesaid, (or as the case may be) did issue your order or did convict, &c. (as the case is.) And whereas it appears that (here state the objections to the order, conviction, or other proceeding,) and moreover that the said order, (conviction or other proceeding,) was irregular and illegal, wherefore the said — being resolved to seek a remedy for the great injury which he (or they) has (or have) received and sustained by means of the said order, (or conviction or other proceeding,) I do hereby on behalf of the said C. D. according to the form of the statute in that case made and provided, give you notice

(a) See 13 Geo. II. c. 18. s. 5. This act only applies to summary proceedings, and does not affect indictment, ante 1 vol. 382. 1 East. 298, 304, but it has been deemed advisable to insert this form. See also Cro. C. C. 8th Ed. 279. Williams, J. Certiorari VI. Dick. Sess. 391. (b) See Dick. Sess. 391.

that his majesty's court of king's bench will, in six days from the time of your being served with this notice, or as soon after as counsel can be heard, be moved on the behalf of the said C. D. for a writ of certiorari to issue out of the said court, and to be directed to ——— (*the proper officer of the quarter sessions of the peace, if it be a record of session, or otherwise to the justice in whose possession it ought to be*) for the removal of the record of, &c. (*as the case may be*) into his majesty's said court of king's bench. Dated this ——— day of ——— in the year of our Lord ———.

P. Q. attorney for the said C. D.

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In* the king's bench.

A. B. of, &c. gentleman, maketh oath and saith, that at the last general quarter sessions of the peace holden in and for the county of S. a bill of indictment was preferred and found against the inhabitants of the parish of N. C. in the said county, for a nuisance in not repairing a certain common king's highway, leading from B. M. in the said county of S. towards and unto the town of B. in the county aforesaid, from the entrance into a drove called B. D. at a place called P. D. opposed to J. F.'s house, containng in length three quarters of a mile, and in breadth thirty feet, extending from thence in a northern direction as far as N. B. bridge, in which said indictment it is alledged that the inhabitants of the parish of N. C. aforesaid, ought to repair and amend the same common king's highway, when and so often as it shall be necessary; and the deponent saith, that the right or title to repair said highway will come in question upon the trial of the said indictment, as this deponent is advised and verily believes; and the determination of the said indictment may materially affect other parishes similarly circumstanced, by reason of the inclosures lately made in that part of the country, under and by virtue of an act of parliament passed in the thirty-seventh year of his present majesty's reign, intituled "An act for dividing, allotting, and enclosing certain moors, commons, or waste lands and grounds lying and being within the parishes of N. C. S. S. G. and W. in the county of S." And this deponent further saith he is advised, and believes that it will be proper to have the said indictment tried by a special jury, and absolutely necessary that the jury before whom the said indictment is tried, should, previous to the trial thereof, view the said highway, which the defendants cannot have the benefit of at the sessions.

Affidavit in support of application by defendant, for certiorari to remove an indictment from sessions, for not repairing highway. (c)

(c) Ante 1 vol. 373, 381, 2, &c. By 13 Geo. III. c. 78. indictments of this description cannot be removed at the instance of the defendants, unless the right to repair is likely to come in question, or a view be necessary. Ante 1 vol. 380. Hand's Prac. 353.

Affidavit of the circumstances in support of the defendant's application for a certiorari.
(d)

[* 247]

Writ of certiorari to justices of the peace to remove an indictment at instance of prosecutor.
(e)

In the king's bench.

W. C. of, &c. D. Mc. K. of, &c. and D. R. of, &c. severally make oath and say, that they stand indicted at the sessions of the peace, holden in and for the city of L. together with several other persons in the annexed copy of indictment named, for the nuisances therein specified, to which indictment these deponents have given bail, and these deponents further say, that the said* indictment involves a question of considerable magnitude, they being informed and believing, that there is an ancient fair or market held at the place in question, and therefore meaning to justify the assembling there; and these deponents say, that many thousand persons wholly depend on the said fair or market for their subsistence, and that this prosecution is conducted by the solicitor for the corporation of the city of L. and as these deponents have been informed and believe, by and under the direction of the said corporation, wherefore these deponents are apprehensive that they shall not have a fair trial at the sessions of the peace to be holden in and for the said city.

George the third, &c. to the keepers of our peace, and to our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within our county of Dorset, and to every of them, greeting. We being willing for certain reasons that all and singular indictments of whatsoever trespasses, contempts, and assaults, whereof W. E. is indicted before you, (as it is said) be determined before us and not elsewhere, do command you and every of you, that you or one of you do send under your seals, or the seal of one of you, before us at Westminster, immediately after the receipt of this our writ, all and singular the said indictments, with all things touching the same, by whatsoever name the said W. E. is called in the same, together with this our writ, that we may further cause to be done therein what of right and according to the custom of England we shall see fit to be done. Witness, &c.

By the court, Burrow.

At the instance of the prosecutor.

By rule of court.

Return thereto.

The execution of this writ appears in the schedule to the same writ annexed.

Dorsetshire. I, Richard Brodrippe, esq. one of the keepers of the peace, and justice of our lord the king assigned to keep the peace, within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the same county committed, by virtue of the writ to

(d) See form, Hand's Prac. form, 1 East. 299. Ante 1 vol. 352. 382.

(e) 10 Went. 473, and see

me delivered, do under my seal certify unto his majesty in his court of king's bench, the indictment of which mention is made in the same writ, together with all matters touching the same indictment. In witness whereof I, the said R. B. have to these presents set my seal, given at Dorchester, in the said county, the twenty-second day of February, in the ninth* [* 248] year of the reign of our sovereign lord, George the third, by the grace of God, of Great Britain, France, and^f Ireland, king, defender of the faith and so forth, and in the year of our Lord, 1769.

George the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth. To the keepers of our peace, and to our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within our county of Cambridge, and to every of them, greeting. We being willing, for certain reasons, that all and singular indictments of whatsoever trespasses, contempts, and assaults, whereof G. A. and M. O. gentlemen, are indicted before you (as it is said) be determined before us, and not elsewhere, do command you and every of you, that you or one of you do send under your seals or the seal of one of you before us, on the morrow of All Souls, wheresoever we shall then be in England, all and singular the said indictments, with all things touching the same, by whatsoever name the said G. A. and M. O. are therein called, together with this our writ, that we may further cause to be done thereon what of right, and according to the law and custom of England we shall see fit to be done. Witness, William lord Mansfield, at Westminster, the nineteenth day of June, in the eleventh year of our reign.

Writ of certiorari to remove an indictment from the quarter sessions at Cambridge, into B. R. and its return. (f)

By the court, Burrow.

The execution of this writ appears in a certain schedule hereunto annexed. Return thereto. (g)

The answer of A. B. esquire, one of the justices within named.

Cambridgeshire, (to wit.) Be it remembered, that at the general quarter session of the peace of our sovereign lord the king, held at Cambridge, in and for the said county of Cambridge, on Friday, in the first week after the close of Easter, to wit, the twelfth day of April, in the eleventh year of the reign of our lord George the third, king of Great Britain, &c. before A. B. esq. J. S. doctor in divinity, vice-chancellor of the University of Cambridge, J. B. esq. mayor of Cambridge, R. P. doctor in divinity, W. H. E. doctor of laws, E. L. J. D. and H. M. esquires, and others their fellows, justices of our said lord the king assigned to keep the peace

Schedule.

(f) Cro. C. C. 8th Ed. 100, (g) C. C. C. 8th edition, 100.
1 East. 299.

of our said lord the king, within the said county of C. and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, upon the oath of J. G. &c. [*the names of the jury by whom the bill was found,*] good and lawful men of the county aforesaid, then [* 249] and there sworn and charged* to enquire for our said lord the king and the body of the said county, it is presented in manner and form, as appears in a certain indictment annexed to this schedule.

J. D. clerk of the peace for the said county.
 Writ of certiorari to West Riding of York, to remove an indictment from the session on the application of the defendant. (h) George the third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith. To the keepers of our peace, and to our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within the west riding of our county of Y. and to every of them, greeting. We being willing, for certain reasons, that all and singular indictments of whatsoever trespasses, contempts, and nuisances, whereof S. H. is indicted before you (as is said,) be determined before us and not elsewhere, do command you and every of you, that you or one of you do send under your seals or the seal of one of you, before us, on the morrow of All Souls, wheresoever we shall then be in England, all and singular the said indictments, with all things touching the same, by whatsoever name the said S. H. is called in the same, together with this our writ, that we may further cause to be done therein what of right and according to the law and custom of England we shall see fit to be done. Witness, L. lord K. at Westminster, the 25th day of June, in the forty-first year of our reign.

By the court.

Templer.

Indorsement. (i) Indorsed, "by rule of court," or, "at the instance of the within defendants, who have found two manucaptors according to the form of the statute before."

S. le Blanc.

Return thereto. (k) The execution of this writ appears in a certain schedule hereto annexed.

H. Z.

Schedule. West riding of Yorkshire, to wit. At the general quarter sessions of the peace of the lord the king, holden at the castle of Y. in and for the west riding of the county of Y. on Thursday the 16th day of July, in the thirty-second year of the reign of our sovereign lord George the third, by the grace of God, &c. before sir W. M. baronet, and J. W. junior, esquire, justices of our lord the king, assigned to keep the

(h) See form, Hand's Prac. 354, and another form to justices of a liberty, Cro. C. A. 29.

(i) See Hand's Prac. 354.
 (k) See form, Hand's Prac. 356. Ante 1 vol. 394.

peace of our said lord the king, in the said riding; and also to hear and determine divers felonies, trespasses,* and other misdemeanours committed within the riding aforesaid, that same session of the peace is adjourned by the justices aforesaid, until Tuesday the thirtieth day of July aforesaid, in the year aforesaid, at ten of the clock in the forenoon of the same day, to be holden at S. in and for the riding aforesaid, to do further there as the court shall consider, &c. And on the said Tuesday, the thirtieth day of July aforesaid, in the year aforesaid, the same general quarter sessions of the peace is holden by adjournment aforesaid, at S. aforesaid, in and for the said riding, before W. B. P. W. O. esquires, T. C. and H. Z. clerks, justices of our said lord the king, assigned to keep the peace of our said lord the king in the said riding; and also to hear and determine divers felonies, trespasses, and other misdemeanours committed within the riding aforesaid. At which said quarter sessions of the peace, continued and holden by the adjournment aforesaid, at S. aforesaid, in and for the said riding, on the said Tuesday, the thirtieth day of July aforesaid, in the year aforesaid, before the justices last mentioned, on the oaths of A. B. of K. R. D. of the same place, &c. [*insert the names and additions of the grand jurors,*] gentlemen, honest and lawful men of the said riding, then and there impanelled, sworn, and charged to enquire for our sovereign lord the king and the body of the said riding, the bill of indictment against S. H. hereunto annexed, is found and presented by the jurors aforesaid to be a true bill, and I. H. Z. clerk, one of the keepers of the peace, and justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within the said riding of the county of Y. in obedience to his majesty's writ of certiorari hereunto annexed, do send under my seal, to his majesty in his court of king's bench, the indictment aforesaid; and I do (l) certify, that there are no other indictments whereby the said S. H. is indicted of trespasses, contempt, and nuisances before the justices assigned to keep the peace and to hear and determine as aforesaid, within the said west riding of the county of Y. in witness whereof I the said H. Z. one of the justices of the sessions where the said bill was so found and presented, have to these presents set my hand and seal the tenth day of October, in the thirty-first year of the reign of our sovereign lord George the third, king of Great Britain, &c. and in the year of our lord one thousand seven hundred and ninety-one.

H. Z. (L. S.)

(l) In Hand's Prac. 357, the words "most humbly," are inserted, but these are unnecessary and improper, ante 1 vol. 394.

Certiorari to
two justices
of the peace
to remove a
conviction
into B. R.

(m)

[* 251]

Writ of cer-
tiorari to
justices of
assize to re-
move an in-
dictment
from the as-
sises, at the
instance of
the prosecu-
tor. (n)

[* 252]

Return to
such writ.
(o)
Schedule.

Anne,* by the grace of God, queen of Great Britain, &c. To J. B. knight, mayor of the city of London, and R. L. knight, two of our justices assigned to keep our peace in and for our said city, and also to hear and determine divers felonies, trespasses, and other misdeeds committed within our said city, and to every of them, greeting. We being willing for certain causes, that all and singular records of conviction, of whatsoever trespasses and contempts against the form of the statute, intituled, "An Act for regulating the Measures and Prices of Coals," set forth, whereof E. H. is convicted by you (as it is said), be sent by you before us, do command you, that you send, or one of you do send, all and singular the records of conviction aforesaid, with all things touching the same, by whatsoever name the said E. H. may be named therein, before us, under your seals or the seal of one of you, on the morrow of All Souls, wheresoever we shall then be in England, together with this our writ, that we may further cause to be done thereon that which of right and according to the law and custom of our realm of England we shall see fit to be done. Witness, J. H. knight, at Westminster, the eighth day of June, in the fourth year of our reign.

George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, to our justices assigned to hold our assizes in and for our county of K. and to every of them, greeting. We being willing, for certain reasons, that all and singular indictments of whatsoever trespasses, contempts, and misdemeanours, whereof J. C. is indicted before you (as is said), be determined before us and not elsewhere, do command you and every of you, that you or one of you do send, under your seals or the seal of one of you, before us, on the morrow of All Souls, wheresoever we shall then be in England, all and singular the said indictments, with all things touching the same, by whatsoever name the said J. C. is called in the same together with this our writ, that we may further cause to be done therein what of right, and according to the law and custom of England we shall see fit to be done. Witness Lloyd, lord Kenyon, at Westminster, the 12th day of June, in the 41st year of our reign. Templer.

Indorsed, "At the instance of the prosecutor."

The* execution of this writ appears in a certain schedule hereto annexed. N. Grose.

Kent, (to wit.) Be it remembered, that at the general session of oyer and terminer of our lord the king, holden at M. in and for the county of K. on Monday the twenty-seventh

(m) See form, Cro. C. C. 8th Ed. 101.

(n) See form, Hand's Prac. 359. See form, 11 Harg. St. Tr. 197, 8.

(o) See forms of returns ante, and Hand's Prac. 359. Ante 1 vol. 394.

day of July, in the forty-first year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, before the right honourable Lloyd, lord Kenyon, chief justice of our said lord the king, assigned to hold pleas before the king himself, the right honourable N. G. knight, one of the justices of our said lord the king, assigned to hold pleas before the king himself, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under the great seal of the united kingdom of Great Britain and Ireland, to the said Lloyd, lord Kenyon, sir N. G. and others their fellows, justices of our said lord the king, and to any two or more of them directed, of whom one of them, the said Lloyd, lord Kenyon, and sir N. G. among others in the said letters patent named, our said lord the king willed to be one, to inquire more fully the truth, by the oath of good and lawful men of the said county, and by other ways, means, and methods, by which they shall or may better know, as well within liberties as without, by whom the truth of the matter may be the better known and inquired into, of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and all other falsities of the money of the united kingdom of Great Britain and Ireland, and other kingdoms or dominions whatsoever, and of all murthers, felonies, manslaughterers, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them, within the county aforesaid, as well within liberties as without, by whomsoever, and in what manner soever done, committed, or perpetrated, and by whom or to whom, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them or any of them, in any manner whatsoever, and the said treasons, and other the premises, according* to the laws and customs of [* 253] England for this time, to hear and determine, by the oath of twelve jurors, good and lawful men of the county aforesaid, now here sworn and charged to inquire, for our said lord the king, for the body of the said county, it is presented in manner and form as appears in a certain indictment hereto annexed.

N. G. one of the justices above named.

Kent. The jurors of our sovereign lord the king, upon their oath, present that, &c. [*here set forth the indictment verbatim, to the end, and then subscribe the names of the witnesses sworn in support thereof, thus, see Hand's Prac. 361 to 379.*]

Witnesses, J. K. esquire.
N. J. esquire.
S. J.

Certiorari to
justices of
gaol delivery
to remove an
indictment
into B R
from Wilts
assizes. (p)

George the third, by the grace of God, of Great Britain and Ireland, king, defender of the faith, &c. To our justices assigned to deliver our gaol in and for our county of Wilts, and to every one of them, greeting: we being willing, for certain reasons, that all and singular indictments of whatsoever felonies whereof C. K. is indicted before you (as is said) be determined before us, and not elsewhere, do command you, and every of you, that you or one of you do send under your seals, or the seal of one of you, before us, on the morrow of the Holy Trinity, wheresoever we shall then be in England, all and singular the said indictments, with all things touching the same, by whatsoever name the said C. K. is called in the same, together with this writ, that we may further cause to be done what of right and according to the law and custom of England we shall see fit to be done. Witness, William lord Mansfield, at Westminster, the first of June, in the twelfth year of our reign.

By the court.

Burrow.

Writ of cer-
tiorari to
bring up the
record of
conviction of
murder,
which was
pleaded to
an action on
premises and
replication of
mutuel re-
cord. (q)

[* 254]

George the third, by the grace of God, of, &c. To the justices of the peace of oyer and terminer and gaol delivery of our gaol of Newgate, in and for the city of Bristol, and county of the same city, greeting: whereas one John Lovelass, gentleman, lately, to wit, in Trinity term, in the twenty-fourth year of our reign, by bill without our writ, impleaded one George Groom in our court before us, at Westminster, in the county of Middlesex, in a certain plea of trespass upon the case upon promises, for the non-performance of certain promises* and undertakings then supposed to be lately made by the said George to the said John, to which the said George has for plea in bar alleged as to the promise and undertaking in the said first count of the said declaration mentioned, in that plea mentioned, that is to say, by a certain inquisition taken at a sessions of the peace of oyer and terminer, and general gaol delivery of our gaol of Newgate, in the city of Bristol, and county of the same city, held in the Guildhall of the said city, within the same city, on Saturday the twenty-fifth day of April, in the eighteenth year of our reign, before I. D. mayor of the said city, I. D. recorder of the said city, M. S. one of the aldermen of the said city, and others their associates, our justices, assigned by virtue of letters patent of our lady Anne of Great Britain, &c. late queen, granted and confirmed to the mayor, burgesses, and commonalty of the city aforesaid, and their successors; and by which said letters patent, the said late queen willed that

(p) See form, 6 Went. 428.
See form, 11 Harg. St. Tr. 197, 8.

(q) See form, 6 Wentw. 24.

the mayor, recorder, and aldermen of the city aforesaid, for the time being, or any three or more of them (whereof the said mayor and recorder for the time being to be two,) should be such justices to inquire, by the oaths of good and lawful men of the county of the city aforesaid, as well within liberties as without, by whom the truth of the case might be the better known, of all treasons, murders, ravishments of women, and other felonies whatsoever, as also of all trespasses and misdemeanours within the said precincts and liberties of the city of B. aforesaid, by whomsoever or howsoever done, perpetrated, or committed, and also all indictments whatsoever, before our same justices, or any of our late justices, or any of them, within the county of the city aforesaid taken, to hear and determine, and our gaol of the county of the city of B. aforesaid, of the prisoners therein being to deliver, the said I. L. was convicted of the wilful murder of A. B. and was adjudged by the court there to be hanged until he was dead, on Wednesday, the twenty-ninth of April, in the eighteenth year of our reign, and his body to be delivered to R. S. surgeon, to be dissected and anatomized, as more fully appears by the record and proceedings thereof: to which said plea of the said George, he the said John has replied, that there is not any such record of the conviction and attainder of him the said John, as the said George has in pleading alledged; and the said George hath joined issue thereupon, and saith that there is such record of such conviction and attainder now remaining in your* custody; therefore we command you, that you, some or one of you, do search and inspect the record and proceedings before you remaining, and what you shall find by the record and proceedings of the said conviction and attainder as aforesaid, as fully and entirely as the same remains in your* custody you certify and send to us at Westminster, [* 255] on, &c. under your seals, or the seal of one of you, together with this writ. Witness, William earl of Mansfield, at Westminster, the ——— day of ———, in the ——— year our reign.

William the third, &c. To our trusty and well-beloved J. Holt, our chief justice, assigned to hold pleas before us, greeting: being willing, for certain reasons to be certified of the tenor of the record and proceedings, as well of the rendition of the judgment on a certain indictment against T. W. late of L. gent. deceased, for certain high treasons touching the person of the lord Charles the second, late king of England, whereof he was indicted, and thereupon, by a certain jury of the country thereon, between the said late lord the king and the said Thomas, taken before the justices of

Certiorari to
remove the
indictment
from the
King's Bench
to the Court
of Chancery.
(r)

the said lord the king assigned to deliver the gaol of Newgate, for the city of London, of the prisoners being in the same, was convicted, and judgment was thereupon given for the said late king against the said T. W. which said record and proceedings thereof, by reason of error happening, we have caused to be brought into our court before us; and we in our said court before us have reversed the judgment aforesaid, for divers errors in the judgment and proceedings aforesaid found; which said record and proceedings afterwards we have caused to be brought before us in our parliament, by reason of error happening, as it is alledged, and afterwards, in the same court of parliament, it was considered that the judgment of reversal of the judgment aforesaid should be in all things affirmed; and which said record and proceedings before us, in our same court before us are now remaining, as it is said: we command you that the tenor of the record and proceedings aforesaid, with all things touching the same, you distinctly and openly send to us in our chancery without delay, wheresoever we shall then be in England, under your seal, and this writ. Witness Thomas, archbishop of Canterbury, and the other keepers and justices of the kingdom, at Westminster, 21st day of July, in the 9th year of our reign.

The answer of J. Holt, knight, the chief justice within written:—The tenor of the record and proceedings within written, with all things touching the same, I certify to the lord the king in his chancery, in a certain schedule to this writ annexed, as I am within commanded. J. Holt.

[* 256]
Special subpoena after a causam nobis signifies to the justices of the peace for the liberty of Saint Peter's, in the city of York, to remove all indictments before them against R. H.
(s)

The king, &c. to the keepers of our peace, and our justices assigned to hear and determine divers felonies, trespasses, and other* misdeeds committed within the liberty of St. Peter's, in the city of York, and to each of them, greeting. Whereas we lately being willing for certain causes, that all and singular the indictments for certain trespasses and assaults, whereof Robert Hoopes, of the city of York, draper, and all others in the same indictments mentioned, were before you indicted, as it is said, should be determined before us and not elsewhere, lately commanded you and every of you, that you or one of you should send to us, under your seals, all and singular the indictments aforesaid, with all things touching the same (by whatsoever names the said R. and the others may be called in the same), or that you, or one of you, should signify to us the cause why you were unwilling or unable to perform those our commands, and you did not care to signify the same to us, to the manifest contempt of us and our aforesaid commands; you, therefore, and every of you, we strictly enjoin and command, that you send, or that

one of you send, all and singular the indictments aforesaid, with all things touching the same, by whatsoever names the said R. and the others be called, in the same, before us, under your seals, or the seal of one of you, in eight days of St. Michael, wheresoever we shall then be in England, according to the tenor of our aforesaid commands, to you and every of you thereupon directed; and further, that you cause to be done thereupon what of right and according to the law and custom of England we shall see fit to be done, and this you are in no wise to omit under the penalty of 40*l.* or that you yourselves be before us in your proper persons, or in the proper person of one of you, or that he to whose lot it shall fall that this our writ shall be delivered, be before us in his proper person to show wherefore our commands to you and every of you, so often heretofore directed, you have neglected to obey, and have there this writ. Witness J. Brampston, at Westminster, on the 13th day of June, in the 14th year of our reign.

By the court.

F. and J.

Charles the second, &c. To our justices assigned to hold assizes for the county of Hertford, to our justices assigned to deliver the gaol of the prisoners therein being, and to our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanours in the same committed, greeting: We being willing, for certain causes, that the barons of our exchequer at Westminster should be certified by you of the tenor of a certain fine or amerciament upon* J. R. baronet, now or late sheriff of the county aforesaid, by you or some of you lately imposed, command you that you have the tenor of the fine or amerciament aforesaid, together with all fines and amerciaments touching the same, by whatsoever name or addition the said J. R. may be amerced, in manner and form as the same remains before you, so fully, perfectly, and amply before the barons of our exchequer at Westminster, from Easter day, in three weeks, that the same barons may cause to be done thereupon for us what of law and according to the laws and customs of our kingdom of England shall be fit to be done, and have there this writ: Witness, Edward Turner, knight, the 18th of April, in the 26th year of our reign, by the warrant of the attorney-general of our lord the king, and by the barons.

Certiorari from the exchequer to justices of assize, gaol delivery, andoyer and terminer, commanding them to certify a fine imposed by them on a sheriff for not doing his duty at the assizes. (t)
[* 257]

Fanshawe.

In Burn, J. title Certiorari IV. it is observed, that the return to a certiorari may be thus: first on the back of the writ indorse these or the like words, "The execution of this writ appears in a schedule hereunto annexed."

Return to writ of certiorari.

And which schedule may be thus on a separate piece of parchment, and annexed to the writ.

Return of
justice of
peace of cer-
tiorari of in-
dictment.
(u)

Westmoreland. I, sir Philip Musgrave, baronet, one of the keepers of the peace and justices of our said lord the king, assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the same county committed, by virtue of this writ to me delivered, do, under my seal, certify unto his majesty in his court of king's bench, the indictment of which mention is made in the same writ, together with all matters touching the same indictment. In witness whereof, I, the said sir P. M. have to these presents set my seal. Given at —, in the said county, the — day of —, in the — year of the reign of —.

P. M. (L. S.)

Then take the record of the indictment and close it within the schedule and seal, and send them both up together with the certiorari.

The like
from the ses-
sion into
K. B. (w)

The execution of this writ appears in a certain schedule here-
unto annexed.

[* 258]

—, to wit. Be it remembered, that at the general quarter session of the peace of our sovereign lord the king, held at —, in and for the said county of —, on Wednesday in the first week* after the close of Easter, that is to say, the — day of —, in the — year of the reign of our sovereign lord George the third, king of the united kingdom of Great Britain, &c. before A. B. C. D. E. F. and others their fellows, justices of our said lord the king, within the said county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, upon the oath of W. J. R. Z. A. Q. &c. [*here insert the names of the jurors by whom the bill was found,*] good and lawful men of the county aforesaid, then and there sworn and charged to enquire for our said lord the king, and the body of the said county, it is presented in manner and form as appear in a certain indictment annexed to this schedule.

P. Q.

Return of a
writ of cer-
tiorari, di-
rected to
justices of
oyer and ter-
miner, that
an indict-
ment was
found a True
Bill, with

Clerk of the peace for the said county.

R. to wit. Be it remembered, that at the general sessions of oyer and terminer of our sovereign lord the king, holden for his county of W. at N. in and for the same county, on Monday the — day of —, before sir H. G. knight, one, &c. [*state the commission,*] by the oath of A. B. &c. [*state names of grand jury,*] good and lawful men of the said county

(u) See Burn, J. Certiorari IV. (w) See form, Dick. Sess. 394. See other forms of Certiorari Ante 1 vol. 394. ante, 244, &c.

of N. then and there sworn and charged to enquire for our coroner's in-quest and re-cognizance. (x)
said lord the king for the body of the said county. It is presented that the three several bills of indictment to this schedule annexed are true bills, and each of them is a true bill. Caption of indictment.

Before sir H. G. knight, one of the justices, &c. &c. and others their fellows, justices of our said lord the king, assigned to deliver the gaol of our said lord the king of his said county, of the prisoners therein being, came A. B. gent. one of the coroners of our said lord the king of and within the said county, and by his proper hands delivered here in court to the said justices, a certain inquisition lately taken before him on view of the body of D. D. then and there lying dead, of and concerning the death of the said D. D. in court of record in form of law to be determined; and the said coroner, at the same time, also certified to the said justices in writing, the evidence given to the jury before him on the taking the said inquisition, and the recognizances entered into by the witnesses, according to the form of the statute in that case made, which said inquisition, and evidence, and recognizances, are to this schedule annexed. Caption of inquisition.

Before sir H. G. knight, one, &c. [*the commission verbatim,*] to hear and determine. The recognizance to this schedule annexed, was* duly entered into and acknowledged by Morris Lineham, and his pledges Wm. Smith and John Robinson, before the court and justices above named. Caption of recognizance. [* 259]

Blencowe.

Indorse the writ of certiorari thus :

Indorsement.

By virtue of the within writ to me and others directed, I send to our sovereign lord the king the indictment and inquisition within mentioned, with all things touching the same, in certain schedules hereunto annexed, as I am within commanded.

The answer of

Sir H. G. knight, one of the justices, &c.
and one of the justices within named.

Warwickshire. Be it remembered that, at the general sessions of oyer and terminer of our lord the king, holden at Warwick, in and for the county of Warwick, on Saturday, the 4th day of August, in the 27th year of the reign of the lord George the third, now king of Great Britain, &c. before sir W. H. A. knight, one of the justices of the said lord the king aforesaid, to hold pleas before the king himself, sir B. H. knight, one of the barons of the said lord the king of his court of exchequer, G. Hill, one of the serjeants at law of the said lord the king, Harley Vaughan, serjeant at law, and others their fellows, justices of the said lord the king, as- Another form. (y).

(x) Ante 1 vol. 394. This form is from Mr. Nicholl's MS. *Crim Law.*
(y) Ante 1 vol. 394. This form is from Mr. Nicholl's MS. *Vol. IV.*
I i

signed by letters patent of the said lord the king, under his great seal of Great Britain, to them the said justices, and any two or more of them, made (of whom the said lord the king willed the said sir W. H. A., S. B. H. G. knight, and H. V. should be one) to inquire more fully the truth, by the oath of good and lawful men of the county aforesaid, by whom the truth of the matter might be better known and inquired into, and by other ways, means, and methods, whereby they would or might the better know, (as well within liberties as without,) of all treasons, misprisions of treasons, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the monies of Great Britain, and other kingdoms or dominions whatsoever, and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, unlawful assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also [* 260] of the accessaries* of them, within the county aforesaid, (as well within liberties as without,) by whomsoever and in what manner soever done, committed, or perpetrated, and by whom or to whom, when, how, and in what manner; and of all other articles and circumstances concerning the premises, and every of them, or any of them, in any manner whatsoever; and the said treasons, and other the premises, according to the laws and customs of England for this time to hear and determine, by the oath of sir G. Shuckburgh, &c. good and lawful men of the county aforesaid, then and there sworn and charged to inquire for the said lord the king, and the body of the county aforesaid, it is presented that the bill of indictment hereunto annexed is a true bill.

Blencowe.

By virtue of the within writ, to me and others directed, I send to our sovereign lord the king the indictment within mentioned, with all things touching and concerning the same, in certain schedules hereunto annexed, as I am within commanded. B. H. (L. S.)

The answer of sir B. R. knight, one of the justices of oyer and terminer in and for the county of Warwick, within named.

Recogni-
zance to ap-
pear to in-
dictment in
K. B. and
plead. (z)

West Riding of Yorkshire, (to wit.) Be it remembered that, at the general quarter sessions of the peace of our sovereign lord George the third, now king of Great Britain, and so forth, held at B. in and for the riding aforesaid, on Thursday, the 10th day of October, in the thirty-second year

(z) See forms, Hand's Prac. 1 vol. 383, &c.
354. 8 T. R. 381, 409, n. a. Ante

of the reign of our sovereign lord George the third, now king of Great Britain, and so forth, and in the year of our Lord 1791, before R. W. esq. sir W. M., S. R., W. W. baronet, E. S., H. W. junior, I. H., T. M., A. M., I. W., junior, P. M. esq. T. M. and H. Z. clerks, justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said riding, and also to hear and determine divers felonies, trespasses, and other misdemeanours, committed within the riding aforesaid, S. H. late of H. in the west riding of the county of York aforesaid, spinster, L. M. of the parish of B. in the county of B. yeoman, and N. O. of the parish of R. in the said county of Y. husbandman, come in their own proper persons before us, the justices aforesaid, and in open court severally acknowledge themselves to owe and stand indebted to our sovereign lord the now king in the several sums following, that is to say, the said S. H. in the sum of one hundred pounds* (a), of [* 261] lawful money of Great Britain, and the said L. M. and N. O. in the sum of fifty pounds each, of like lawful money, on condition that if the above bounden S. H. shall appear in his majesty's court of king's bench, at Westminster, in the county of M. on the first day of next Michaelmas term, and shall plead to all and singular indictments against her for certain trespasses, contempts, and nuisances, whereof she stands indicted, and at her own proper costs and charges shall cause and procure the issue or issues that shall be joined thereon to be tried in the same term, or at the next assizes to be holden at the county of Y. if the said court shall not appoint any other time for the trial thereof, or if any other time shall be appointed by the said court for such trial, then at such other time, and shall give due notice of such trial to the prosecutor of such indictment, or indictments, or to his clerk in court, and shall appear from day to day in the said court, and shall not depart therefrom until discharged by the said court, then this recognizance to be void, or else to remain in full force.

Taken in court the day and year above mentioned.

W. B. clerk of the peace for the said riding.

Liberty of Ripon, in the county of York, (to wit.) Be it ^{Another} remembered that, at the general quarter session of the peace ^{form. (b)} of our sovereign lord George the third, now king of Great Britain, and so forth, held at Ripon aforesaid, in and for the said liberty, as well for our said lord the king as for his grace Robert, by Divine Providence, lord archbishop of York, primate of England, and metropolitan, on Friday, the

(a) Quære if the sum ought not to be more than 20*l.* ante 1 vol. 383, 385, 462. Hawk. b. 2. c. 27. s. 50. Com. Dig. Certiorari. B. Williams, J. Certiorari VI. (b) See forms, Cro. Cir. Assist. 30. Williams, J. Certiorari, VI.

first week after the feast of Saint Michael, to wit, the 6th day of October, in the fifteenth year of the reign of our sovereign lord George the third, now king of Great Britain, and so forth, and in the year of our Lord one thousand seven hundred and seventy-five, before T. W. esquire, mayor of Ripon aforesaid, F. W. doctor in divinity, dean of the collegiate church of Ripon aforesaid, A. D. and J. L. esquires, justices of our said lord the king, assigned to keep the peace of our said lord the king, in and for the said liberty of Ripon, and also to hear and determine divers felonies, trespasses, and other misdemeanours within the said liberty committed, W. S. late of the parish of B. in the said county of York, esquire, W. B. late of the township of S. in the county of Lancaster, gentleman, and W. P. late of the same place, merchant, come in their own proper persons before us,* the justices aforesaid, and in open court, severally acknowledged themselves to owe and stand indebted to our sovereign lord the now king in the several sums following, that is to say, the said W. S. in the sum of 100*l.* (c) of lawful money of Great Britain, and the said W. B. and W. P. in the sum of 50*l.* each, of like lawful money, on condition that, if the above bounden W. S. shall appear in his majesty's court of king's bench, at Westminster, in the county of Middlesex, on the first day of next Michaelmas term, and shall plead to all and singular indictments against him for certain nuisances, trespasses, offences, and misdemeanours, whereof he stands indicted, and at his own proper costs and charges shall cause and procure the issue or issues that shall be joined thereon to be tried in the same term, or at the next assizes to be holden for the said county of York, if the said court shall not appoint any other time for the trial thereof, or if any other time shall be appointed by the said court for such trial, then at such other time, and shall give due notice of such trial to the prosecutor of such indictment or indictments, or to his clerk in court, and shall appear from day to day in the said court, and shall not depart therefrom until discharged by the said court, then this recognizance to be void, or else to remain in full force.

By the court.

Taken in court the day and year aforesaid.

S. L. clerk of the peace for the said liberty.

Notice of
bail after re-
moval of in-
dictment in-
to K. B. (d)

In the king's bench.

The King
against

A. B. on the prosecution of G. H.

Sir,

Take notice, that the above-named defendant will put in

(c) Quere as to the sum, ante 261, n. a.

(d) See form, Hand's prac. 389. and ante 1 vol. 397.

bail in this cause before the honourable Mr. Justice Le Blanc, at his chambers in Serjeant's inn, Chancery lane, to-morrow, at eleven o'clock in the forenoon, for his appearance in this honourable court in next Michaelmas term, then and there to answer and plead to the indictment you preferred against him at the last general quarter session of the peace of the county of M. and which you have since removed into this honourable court; the names of the bail are C. D. of, &c. gentleman, and E. F. of, &c. merchant. Dated this first day of September, 1802.

Your's, &c.

W. H. solicitor for the above-named defendant.

To Mr. G. H. solicitor for the prosecution.

The King } Unless* the defendant shall put in better bail Rule for bet-
against } within four days next after notice of this rule to ter bail.
A. B. } him or his attorney given, let a procedendo issue.

Ellenborough.

By consent of the defendant in these causes now present Rule for
in court, of Mr. Serjeant Glynn, Mr. Recorder of London, quashing an
Mr. Stow, and Mr. Dunning, counsel for the prosecutors of indictment
the two indictments, it is ordered that the first indictment be removed by
quashed, and that the second indictment shall be substituted certiorari on
and put in the place of the first, and stand in the same con- terms. (e)
dition, to all intents and purposes whatsoever; and the said
counsel for the prosecutors being called upon to name the
prosecutor or prosecutors of the said indictments, declared
that they were authorized by Mr. James Phillips, the
attorney concerned in carrying on these prosecutions, to say
that John Wilks, late of Great George street, Westminster,
esq. is the prosecutor of the said two indictments.

By consent of Mr. Serjeant Glynn for the prosecutor.

By consent of Mr. Attorney General for defendant.

By the court.

(e) Ante 1 vol. 299. See form 3 Burr. 1469.

[* 264]

CHAPTER* X.

 PETITIONS FOR AND ASSIGNMENT OF COUNSEL—AND AR-
RAIGNMENT AND INDICTMENTS.

Rule on pro-
secution for
treason, for
delivery of
list of jury,
&c. to pri-
soner. (a)

Middlesex.

The King
against

— Gordon, esq. commonly called
Lord George Gordon.

It is ordered that the sheriff of Middlesex do forthwith deliver to Mr. —, the solicitor for the prosecutor, a list of the jury to be returned by him for the trial of the prisoner, mentioning the names, professions, and places of abode of such jurors, in order that such list may be delivered to the prisoner at the same time that the copy of the indictment is delivered to him. On the motion of Mr. Attorney-General.

By the court.

[* 265]
Petition for
a king's
counsel. (b)

To* the king's most excellent majesty.

The humble petition of the inhabitants of N. C. in the coun-
ty of S —,

Sheweth,

That at the last general quarter sessions of the peace holden in and for the county of S. indictments were preferred against your petitioners for not repairing a certain common king's high-way, leading from C. M. in the said county, to the town of B. in the said county, and for not repairing a certain other

(a) Doug. 591, note (2.) Ante
1 vol. 404.

(b) Hand's Prac. 417. Ante 1
vol. 410, 411.

road leading from the parish of L. in the said county, to the parish of T. St. G. in the said county, which said indictments your petitioners have caused to be removed into your majesty's court of king's bench, and have pleaded thereto not guilty, and the same now stands for trial at the next assizes to be held in and for the said county.

That your petitioners have advised with V. G. esquire, one of your majesty's counsel, learned in the law, but forasmuch as he cannot plead for your petitioners in the said indictments without your majesty's royal licence to the said V. G. to be of counsel for them in the said indictments.

Your petitioners therefore most humbly pray your majesty will be graciously pleased to grant your royal licence for the said V. G. to be of counsel for them in the said indictments as often as there shall be occasion.

And your petitioners shall ever pray, &c.

To the king's most excellent majesty.

The humble petition of T. P. of L. in the county of L. wine-merchant,

Sheweth,

That in Trinity term last an information was filed in your majesty's court of king's bench against your petitioner for divers trespasses, contempts, and misdemeanours which is to be tried at the next assizes to be held for the county of L.

That your petitioner hath in the proceedings relating to the said matters always advised with S. L. esquire, one of your majesty's serjeants at law, who is well acquainted with your petitioner's case, and thereby may be of great use to your petitioner in defending his said cause.

Your petitioner therefore most humbly prays your majesty will be graciously pleased to grant your permission and licence to* the said S. L. to be of counsel for your petitioner [* 266] in his said cause.

And your petitioner shall ever pray, &c.

To his royal highness the prince regent.

The humble petition of C. D. of ———, in the county of Middlesex, esquire,

Humbly sheweth,

That a criminal information hath been filed against your petitioner, as of Trinity term last, on the prosecution of ———, in the court of king's bench, against your petitioner for publishing a supposed libel against ———, and is to be tried at the sittings after last Michaelmas term, to be holden at Westminster Hall, in and for the county of Middlesex.

That your petitioner hath advised with W. D. B. esquire,

Form of petition for assignment of king's serjeant as counsel. (c)

Petition to the Prince Regent for counsel on trial of information for libel in K. B. (d)

(c) Hand, 246. Ante 1 vol. 410, 1.

(d) See forms ante 265. Hand's Prac. 473.

one of his majesty's serjeants, learned in the law, who may be very useful to your petitioner in defending him on the trial of the said indictment.

Your petitioner therefore most humbly prays that your royal highness will be graciously pleased to grant his majesty's royal dispensation to the said W. D. B. esquire, to be of counsel for your petitioner on the trial of the said indictment.

And your petitioner, as in obedience and duty bound, shall ever pray, &c.

C. D.

The like on trial of indictment for libel, removed into K. B. (e)

To his royal highness the prince regent.
The humble petition of C. D. of ———, in the county of Middlesex, esquire,

Humbly sheweth,

That your petitioner was indicted at the general session of the peace of our lord the king, holden in and for the county of Middlesex, on Tuesday, the 9th day of May last, for a supposed libel, on the prosecution of A. B.

That the said indictment was in Trinity term last removed by the said prosecutor into the court of king's bench, and is to be tried at the sittings after last Michaelmas term, to be holden at Westminster Hall, in and for the county of Middlesex.

That your petitioner, &c. [*proceed as in the last precedent.*]
Do you desire counsel to be assigned to you?

Whom by name do you desire to have assigned to you?

Mode of assignment of counsel. (f)
Entry of appearance, and plea of not guilty, to an indictment for misdemeanour. (g)
[* 266]

And* thereupon at the same general quarter session of the peace, held by the said last mentioned adjournment at the New Bayley court house, within S. aforesaid, in and for the said county, the said 17th day of January, in the thirty-eighth year aforesaid, before the said justices of our said lord the king above named, cometh the said N. S. in his proper person, and having had hearing of the said indictment aforesaid, was instantly to speak to this court how he would acquit himself of the premises aforesaid, in the indictment aforesaid above alledged against him, and therefore of the good and evil thereof doth put himself upon the county, and E. L. esquire, attorney-general, for our said lord the king, of and for the county palatine aforesaid, who for our said lord the king here in this behalf doth follow, for our lord the king doth so likewise. Therefore, &c.

The king against H. J. on the prosecution of P. S.
Mr. P. S.

Notice of pleading

Take notice that I will appear at the next general (or general quarter) session of the peace to be holden (or "by ad-

(e) Hand, 473, MS. (g) Hand, 466. Ante 1 vol. 410.
(f) Burr. 643. Ante 1 vol. 470.

jourment") at the new Sessions-house, on Clerkenwell-green, guilty to an indictment.
in and for the county of Middlesex, on Friday the — day (h)
of this instant, — at the hour of ten in the forenoon of the
same day, and will then and there plead guilty to and confess the indictment by you preferred against me for an assault.

Dated this — day of —, 1816.

Yours, &c.

H. J.

Oyez. My lords the king's justices do strictly charge and Proclama-
command all manner of persons to keep silence, for they will tion for si-
now proceed to the pleas of the crown and arraignment of lence, to pro-
prisoners upon their lives and deaths; and all those that ceed on bu-
are bound by recognizance to give evidence against any of siness on the
the prisoners which shall be at the bar, let them come forth arraignment
and give their evidence, or they will forfeit their recog- of prisoners.
nizance. (i)

Clerk of arraigns says, "Alexander Knightley, hold up Form of ar-
thy hand," which being done, the clerk of arraigns then says, raignment
"You stand indicted by the name of Alexander Knightley, for high trea-
son. (k)
late of —, gentleman, for that you not having the fear of
God," &c. [*Here the indictment verbatim is stated in the second
instead of the third person to the end, and then the clerk of the
arraigns says,*]

How* sayest thou, Alexander Knightley, art thou guilty [* 268]
of the high treason whereof thou standest indicted or not
guilty?

Knightley. Not guilty.

Clerk of arraigns. Culprit, how will you be tried?

Knightley. By God and my country.

You C. D. stand indicted by the name of C. D. for that Mode of
you, &c. (here read the indictment.) How say you C. D. are asking the
you guilty or not guilty? prisoner
whether he
be guilty or
not guilty,
and his an-
swer. (l)

The prisoner then says either "guilty," or "not guilty."

If the prisoner says "not guilty," the clerk then asks,

"How will you be tried?" The common answer is,

"By God and the country."

Then the clerk says, "God send you a good deliverance."

Whereupon he writes "po. se." (i. e. "ponit se,") over the
prisoner's name in the indictment.

And afterwards, to wit, at the same delivery of the gaol of Entry or de-
the said lord the king of his county aforesaid, on the said scription of
Friday the 6th day of August, in the said second year of the the arrai-
ment on the
record. (m)

(h) Cro. C. C. 8th Ed. 299, 7 1 vol, 414, 15, &c.
Ed. 58. Toone, 393. Ante 1 (l) Dick. Sess. 160. 2 Hale,
vol. 429. 219. See fuller forms, 4 Harg.

(i) Cro. C. C. 8th Ed. 485. St. Tr. 777, 661. Ante 1 vol. 415.
Ante 1 vol. 414. (m) 4 Bla. Com. App. III.

(k) 4 Harg. St. Tr. 777, against Ante 1 vol. 419.
several defendants, id. 661. Ante

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K k

reign of the said lord the king, before the said justices of the the lord the king last above named, and others their fellows aforesaid, here cometh the said Peter Hunt under the custody of the said William Browne, esquire, sheriff of the county aforesaid, (in whose custody in the gaol of the county aforesaid, for the cause aforesaid, he had been before committed) being brought to the bar here in his proper person, by the said sheriff, to whom he is here also committed. And forthwith being demanded concerning the premises in the said indictment, above specified and charged upon him, how he will acquit himself thereof, he saith that he is not guilty thereof, and thereof for good and evil he puts himself upon the country. And John Blencowe, esquire, clerk of the assizes for the county aforesaid, who prosecutes for the said lord the king in this behalf, doth the like. Therefore, &c.

Jurors' oath to try whether prisoner stands obstinately mute. (n)

You shall diligently enquire and true presentment make for and on behalf of our sovereign lord the king, whether Francis Mercier, otherwise Louis Le Butte, the now prisoner at the bar, being now here indicted for the wilful murder of David Samuel Mowbray, stands mute fraudulently, wilfully, and obstinately, or by the providence and act of God, according to your evidence and knowledge.

The like in another form (o)

[* 269]

You* shall well and truly try the prisoner at the bar whether he stands mute by the act of God or out of malice, and a true verdict thereupon give according to the evidence. So help you God.

Oath to witnesses to try whether prisoner stands obstinately mute. (p)

The evidence you shall give to the court and jury, sworn upon this inquest, whether the prisoner at the bar stands mute by the act of God or out of malice, shall be the truth, the whole truth, and nothing but the truth. So help you God.

The prisoner stands mute fraudulently, wilfully, and obstinately, and not by the visitation of God.
Form of finding of jury that prisoner stands obstinately mute. (q)

Form of finding that prisoner is mute by the visitation of God. (r)

Rule where defendant confesses offence, and gives security to appear and receive sentence. (s)

Thursday next, after fifteen days of the Holy Trinity, in the forty-seventh year of king George the third.

Middlesex.

The king
against
Elizabeth Powell.

(n) 1 Leach 4 Ed. 1, 383. 3 Ed. 219. In Cro. C. C. 484, form varies. Ante 1 vol. 424.

(o) Cro. C. C. 484. 1 Leach, 4th Ed. 183, form varies.

(p) Cro. C. C. 484, ante 1 vol. 424.

(q) 1 Leach, 184.

(r) 1 Leach, 452.

(s) See ante 1 vol. 428. In the margin, the following figures are inserted, 100l. 50l. 50l. This signifies that defendant is to be bound in 100l. and two sureties in 50l. each.

The defendant being present here in court, is now here in court charged with the indictment against her in this court for certain misdemeanours in publishing certain impious and obscene libels whereof she is indicted, and having heard the same read, she, the said defendant, is asked by the court here whether she be guilty of the premises thereby charged upon her or not. Whereupon she confesses herself to be guilty thereof, and by consent of Mr. Knapp, of counsel for the prosecutors, she, the said defendant, gives security for her personal appearance in this court, in order to receive the sentence in this court in this prosecution whenever she shall be thereto required, and in the mean time to be of good behaviour.

By the court.

After the clerk of the crown had called to the prisoner to challenge.

L. C. J. Holt.—Mr. Knightley, I perceive you have a desire to speak something: let us hear what you have to say.

Proceedings where defendant confesses indictment. (t)

Knightley.—I humbly beg your lordship's leave that I may speak* before the jury be called. What I have to say I beg I may have leave to read. [* 270]

[The prisoner then read his confession.]

Clerk of the crown.—Thou hast been indicted and arraigned of high treason, in compassing and imagining the death and destruction of the king: how sayest thou, Alexander Knightley, art thou guilty of the high treason whereof thou standest indicted or not guilty?

Knightley.—Guilty, my lord.

Clerk of the crown.—Art thou content to withdraw thy plea not guilty?

Knightley.—Yes, Sir.

Clerk of the crown.—Do you plead to the indictment guilty or not guilty?

Knightley.—I am guilty.

Attorney General.—Then, my lord, we desire, since he relinquishes his plea of not guilty, that you will record his confession; and since he has confessed the indictment, we have nothing more to do but to wait the judgment of the court.

And the said C. D. saith that he will not contend with our said lord the king, and puts himself upon the mercy of the court.

Form of entry of confession. (u)

And immediately being asked of the premises in the indictment aforesaid, specified above, laid to his charge, and how he would acquit himself thereof, the said John Hampden says, that he cannot deny but that he is guilty of the high

Entry of confession of high treason. (w)

(t) 4 Harg. St. Tr. 778.

(w) Trem. 310. Ante 1 vol.

(u) 1 Stalk. 55. Ante 1 vol. 421.

treason aforesaid in the indictment aforesaid above laid to his charge, in manner and form as by the indictment aforesaid against him is above supposed, and he expressly acknowledges the high treason aforesaid in the indictment aforesaid. And immediately being asked, &c.

Entry of arraignment on indictment for refusing to take the oath of allegiance against defendant, who was brought up in the custody of the warden of the fleet, by virtue of habeas corpus ad subjiciendum and confession thereupon, and prayer of judgment by the attorney general. (x)
Judgment.
[* 271]

And now, that is to say, on Thursday next, after the month of Easter, in that same term, before our lord the king of Westminster, comes the aforesaid C. D. in the custody of John Wilkinson, knight, warden of the prison of our lord the king of the fleet, by virtue of a writ of our lord the king of habeas corpus ad subjiciendum, to him thereupon directed, brought here to the bar in his proper person, who is committed to the marshal, &c. and immediately being asked of the premises above laid to his charge, how he would acquit himself thereof, he says that he cannot deny but that he is guilty of the trespass and contempt aforesaid above laid to his charge, in manner and form as by the indictment aforesaid* is above supposed, and he expressly acknowledges the trespass and contempt in the said indictment contained and specified, and thereof he puts himself on the mercy of our lord the king, and upon this Henry Robert Miles, attorney general of our lord the now king, who for our said lord the king prosecutes in this behalf for our said lord the king, prays that judgment against the said C. D. upon his own confession may be thereupon given by the court here. Upon which all and singular the premises, &c.

(x) Co. Ent. 435. Ante 1 vol. 431.

CHAPTER* XI.

[* 272]

RULES TO PLEAD, AND PROCEEDINGS BEFORE ISSUE. (a)

The rules to plead, join in demurrer, and other practical proceedings, when the indictment has been instituted on, or removed into the court of king's bench, are conducted by the clerks in court in the crown office, see ante, 1 vol. 432, &c. Only a few of those proceedings are here given.

Sir,
The prosecutor has entered a rule to plead.

Crown Office, Nov. 6, 1814.

The King Notice in
against K. B. by de-
C. D. fendant's
I am yours, &c. E. F. clerk in
court to de-
fendant's
solicitor, that a rule to plead has been entered.

The* King
against
the Hon. Robt. Johnson.

Unless the defendant shall [* 273]
peremptorily join in demurrer Peremptory
on the morrow, judgment shall rule in K. B.
be entered for the king. for joining
By the court. (c) in demurrer.

Mr. C. D.

Take notice, that if the bill of indictment you are bound by recognizance to prefer against me for a supposed assault on you at the next general quarter sessions of the peace to be holden, &c. (or "at the session of oyer and terminer to be holden," &c.) shall be found a true bill, then I intend to plead not guilty to the same at the same sessions, ("or assizes,") and thereupon to enter and try my traverse to the said indictment immediately at the said sessions ("or assizes.")

Yours, &c. A. B. Notice to
prosecutor
from a defen-
dant in cus-
tody for an
assault, of
his intention
to plead no
guilty to in-
dictment to
be preferred,
and to enter
and try his traverse the same session. (d)

(a) The forms of the pleadings themselves, the requisites whereof were considered ante in the 1st vol. Chap. XI. not being practical proceedings, are not

arranged in this Chapter.

(c) 6 East, 588.

(d) Toone, 394. Ante 1 vol.

486, 7. 1 Leach, 112.

Notice at the assizes of plea filed, and that if issue be joined, &c. he will try at next assizes, &c. (e)

Between the king and the inhabitants of the parish of St. Mary, in the county of Leicester, on the prosecution of J. H.
Mr. J. H.

Take notice that the defendants have pleaded the plea, whereof a copy is annexed to the indictment preferred and found against them on your prosecution, pursuant to the rule made at the last assizes for that purpose, and that the defendants, in case issue shall be taken on the same, will immediately join issue, and try the same at the next assizes to be held for the county of Leicester. And that in case such plea shall be demurred to they will immediately join in and argue such demurrer.

The like in another form. (f)

Between the king and the inhabitants of the parish of St. Mary, in the county of Leicester, on the prosecution of J. H. in a case of nuisance.

The prosecutor is to take notice, that the defendants have delivered the plea whereof a copy is annexed to the indictment found against them. And that unless the prosecutor shall think fit to reply specially, or demur thereto, at the first sitting of the court at the next assizes for the county of Leicester, the general replication will be entered, and issue taken thereon for the king.

The like in another form. (g)

Derbyshire.

John Blencowe, clerk of the assizes.
The King against the inhabitants of the parish of St. A. in the county of Derby.

[* 274]

Take notice that the above defendants did at the last Lent assizes held at Derby, in and for the county of Derby, file a special plea* to the indictment preferred against them for not repairing a highway in a certain place called Ford-lane, and that unless you reply to the said plea before the next assizes to be held in and for the said county, the general replication will be entered, and issue taken thereon on the first day of the said next assizes, and the defendants will take their trial thereon, and that the said defendants may be acquitted and discharged of the said indictment. Dated this ——— day of ———, 1813.

Yours, &c. E. F.

Rule for allowing defendant to withdraw his plea of not guilty, and plead specially after going down to trial, on payment of costs. (h)

To Mr. J. B. the prosecutor.

Lincolnshire. Castle of Lincoln, Monday, 29th March, 5 K. G. III. Mr. J. Bathurst.

The king
against
Wm. H.

on behalf of the
inhabitants of the
village of Waterton.

In a case of Nuisance.

On the motion of Mr. Serjeant Howitt,
of Counsel with the defendant.

It is ordered, that on the defendant's
paying to the prosecutor the costs of
attending with his witnesses at this

(e) From Mr. Nicholl's MS.

(f) From Mr. Nicholl's MS.

(g) From Mr. Nicholl's MS.

(h) From Mr. Nicholl's MS.

assizes, the defendant's plea of not guilty, pleaded at last assizes, be withdrawn, and that his special plea be received and his recognizance respited. And it is further ordered, in default of the defendant's paying the costs, his recognizance be estreated; and that the prosecutor have notice hereof, and be at liberty to demur or reply as he shall be advised, by the last day of Michaelmas term next, otherwise the clerk of assize will enter the general replication.

By the court.

John Blencowe,
clerk of the assizes.

Upon the motion of ———, esq. and ——— esq. being assigned as counsel for the defendants in this cause, and by the consent, and also at the desire and request and by the consent of the defendants now at the bar here, and also by the consent of Mr. Attorney-general on behalf of the king, it is ordered by the court here that E. F. the last of the jurors sworn and impanelled in this cause be withdrawn out of the panel, and that the rest of the jurors in this cause be discharged, no evidence whatsoever having been given to the jury in this cause, either on the part of the king or of the defendants. And it is farther added by the court here, that the defendants have leave to withdraw their pleas of not guilty by them formerly pleaded to the indictment in this cause, and have leave to plead to the jurisdiction of this court, and that the said* defendants have time till to-morrow to put in such plea, and that they deliver copies of such plea to Mr. ———, solicitor for the king in this cause, by eight o'clock of this evening. And thereupon the said defendants do now here, at the bar, withdraw their said pleas of not guilty, in order to put in such plea to the jurisdiction of this court as aforesaid.

Rule for withdrawing juror, and that other jurors may be discharged, and for defendant's withdrawing plea and pleading another. (i)

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E. F. of, &c. maketh oath and saith, that he this deponent did see the clerk of the peace of the county of ———, sign a certificate hereunto annexed, on, &c. and that since (or "before") the time of preferring the indictment this deponent was served with the copy of a capias, issuing out of his majesty's court of common pleas, at the suit of A. B. the prosecutor of the said indictment, returnable, &c. and that on, &c. this deponent did receive a notice of a declaration being filed against him at the suit of the said A. B. the prosecutor of the said indictment in the common pleas office in the Temple, for assaulting him the said A. B. which said declaration and indictment this deponent saith are for one and the same assault, and not for different offences.

Affidavit of action depending for some cause in order to apply for a nolle prosequi. (k)

[The demurrer book commences with caption of sessions Demurrer book where

(i) Fost. 17. Ante 1 vol. 436, Ed. 53. Williams, J. tit. Sessions. Ante 1 vol. 478.

(k) Cro. C. C. 8th Ed. 22, 7th

indictment
removed into
B. R. (i)

at which the indictment was found, and the demurrer book then proceeds as follows.]

Joinder in
demurrer.

[* 276]

Record on
an indict-
ment at ses-
sions remov-
ed into K. B.
with a de-
murrer
thereto and
judgment
thereon for
the defen-
dant for want
of a joinder
in demurrer.
(m)

Which said indictment our said lord the king afterwards, for certain reasons, caused to be brought before him, to be determined according to the law and custom of England, wherefore the sheriffs of London were commanded that they should cause them to come to answer to our said lord the king touching and concerning the premises aforesaid; and now, to wit, on Wednesday next, after five weeks of Easter in this same term, before our said lord the king at Westminster, comes the aforesaid C. D. by Benedict Brown, his clerk in court, and having heard the said indictment read, he saith that he doth not apprehend that our said lord the king will or ought farther to impeach him the said C. D. for the premises, because he saith that the indictment aforesaid is not sufficient in law, and to which he hath no necessity, nor is he bound by the law of the land in any manner to answer the same, and for the insufficiency thereof they pray judgment, and that they may be dismissed by the court here concerning the premises, &c. And G. H. knight, coroner and attorney of our said lord the king, in the court of the said king, before the king himself, who prosecutes for the said lord the king, in this behalf for the said lord the king, saith that the indictment* aforesaid, and the matter therein contained, are good and sufficient in law to compel them the said C. D. to answer the said indictment, wherefore, for want of a sufficient answer in this behalf, he prays judgment, and that the said C. D. by the court here may be convicted of the premises, &c.

Pleas before our lord the king at Westminster, of Trinity Term, in the forty-first year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Amongst the pleas of the king. Roll.

Borough of Saint Albans, in the county of Hertford, amongst the indictments of this term, No. 17.

Some time ago, that is to say, on Friday in the first week next after the Epiphany, to wit, the sixteenth day of January, in the forty-first year of the reign of our sovereign lord George the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, and in the year of our Lord one thousand eight hundred and one, at the general quarter session of the peace of our sovereign lord the king, holden in and for the said borough, before R. B. esquire, mayor of the said borough, P. L. esquire, recorder, T. K. F. C. S. D. A. esquires, and others their fellows, justices of our said lord the king, ap-

(l) 3 Lord Raym. 39.

(m) See form, Hand's Prac. 384.

pointed to conserve the peace within the said borough, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed within the same, upon the oath of twelve jurors, good and lawful men of the borough aforesaid, then and there sworn and charged to inquire for our said lord the king for the body of the borough aforesaid, it was presented in manner and form as followeth, that is to say, Borough of Saint A. in the county of H. to wit, the jurors for our lord the king upon their oath present, that, &c. [*here the indictment was set forth verbatim,*] which said indictment our said lord the king, afterwards for certain reasons caused to be brought before him, to be determined according to the law and custom of England; wherefore the sheriff of the said county of H. is commanded that he do not forbear, by reason of any liberty within his bailiwick, but that he cause him to come to answer to our said lord the king, touching and concerning the premises aforesaid: and now, that is to say, on Friday next after the morrow of the Holy Trinity, in this same term, before our said lord the king at Westminster cometh the said W. J. by H. B. his clerk in court, and having heard the said indictment read, saith, that our said lord the king ought not any farther to* impeach him, the said W. on occasion of the premises whereof he is by the said indictment accused, because he saith, that the said indictment and the matters therein contained, are not sufficient in law to compel him, the said W. to answer thereto, and that no process upon the said indictment ought by the law to be made against him, the said W. and this he is ready to verify; wherefore he prays the judgment of the court here, and that he may be dismissed, and discharged from the said indictment; and the said coroner and attorney of our said lord the king, who for our said lord the king in this behalf prosecuteth, doth not join in demurrer in law with the said W. J. nor doth he say any thing further in the premises: whereupon all and singular the premises being seen and fully understood by the court of our said lord the king now here, for that no one came on the behalf of our said lord the king, further to inform the court here in the premises, or to join in demurrer in law with the said W. J. it is considered and adjudged by the said court here, that the said W. J. be dismissed, and discharged by the court here of and from the premises above specified in the said indictment, and that he depart without day.

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Judgment of
discharge of
defendant.

[* 278]

CHAPTER* XII.

TRAVERSES AND ISSUES—NOTICES OF TRIAL, AND OTHER PROCEEDINGS RELATIVE THERETO—PUTTING OFF TRIAL, AND PROCEEDINGS RELATIVE TO TRIAL IN ADJACENT COUNTY, &c.

Traverse at sessions. (a)

[* 279]

Somerset. Heretofore, to wit, at the sessions (or “general quarter sessions”) of the peace of our said lord the king, holden at Bridgwater, in and for the county of Somerset, on the Tuesday next before the feast of St. Matthew the Apostle, in the ——— year of the reign of George, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, before J. P. K. P. L. M. I. K. and G. H. esquires, and others their companions, justices of our said lord the king, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours, in the same county committed, by the oath of twelve jurors, that is to say, A. B. C. D. G. H. &c. (*naming the grand jury*), good and lawful men of the county aforesaid, then and there sworn and charged to inquire for our said lord the king, and the* body of the said county, it is (b) found and presented as follows, that is to say,

(a) Ante 1 vol. 482, 486. See form, Burn. J. Traverse. Williams, J. Traverse. 1 Leach, 111. 4 East. 175. 8 East. 209. 4 Burr. 2085. The next is a more modern form.

(b) In Burn, J. Traverse, the words are, “It was presented, &c.” but the entries of the proceedings of a court should in general be in the present tense.

Somersetshire, (to wit.) The jurors, &c. [*here set forth indictment, and then proceed as follows.*] Whereupon it is commanded to the sheriff, that he omit not, by reason of any liberty within his bailiwick, but cause the said C. D. (*party indicted*) to come to answer. And afterwards, to wit, on the Tuesday aforesaid, next before the feast of St. Matthew the Apostle, in the year aforesaid, before the aforesaid justices cometh the aforesaid C. D. in his proper person, and having had the hearing of the indictment aforesaid, saith that he is thereof not guilty, and of this he puts himself upon the country. And Adam Martin, who for our lord the king in this behalf prosecutes, in like manner doth the same. Therefore let there come thereupon a jury, before, &c.

Lancashire, (to wit.) Be it remembered, that at the general quarter session of the peace of our sovereign lord the king, holden at L. in and for the county palatine of L. on Tuesday, to wit, the ninth day of January, in the thirty-eighth year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, before I. B. and E. R. esquires, and others their companions, then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, that same general quarter session of the peace of our said lord the king is adjourned by the aforesaid justices of our said lord the king, in that court being, until Thursday, to wit, the eleventh day of the same month of January, in the thirty-eighth year aforesaid, to be holden at B. in A. in and for the said county. At which session of the peace of our said lord the king, holden by the said adjournment at P. in A. aforesaid, in and for the said county, the said eleventh day of January, in the thirty-eighth year above said, before J. B. clerk and R. A. esquire, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, that same general quarter session of the peace of our said lord the king is further adjourned by the last-mentioned justices of our said lord the king, in that court being, until Monday,* to wit, the fifteenth day of the same month of January, in the thirty-eighth year aforesaid, to be holden at W. in and for the said county. At which session of the peace of our said lord the king, holden by the said adjournment at W. aforesaid, in and for the said county, the said fifteenth day of January, in the thirty-eighth year above said,

Traverse of
issue at ad-
journment of
general quar-
ter sessions
for Lanca-
shire. (c)

[* 280]

(c) Hand. Prac. 464 to 467. And see last form, and notes.

before W. H. and T. L. esquires, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours, in the said county perpetrated, that same general quarter session of the peace of our said lord the king is further adjourned by the same last-mentioned justices of our said lord the king, in that court being, until Wednesday, to wit, the seventeenth day of the same month of January, in the thirty-eighth year aforesaid, to be holden at the New Bayley court-house, within S. in and for the said county. At which session of the peace of our said lord the king, holden by the said adjournment at the New Bayley court-house, within S. in and for the said county, the said seventeenth day of January, in the thirty-eighth year above said, before I. B. B. and P. D. esquires, and others their companions, then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, upon the oaths of C. W. of C. &c. [*here insert the names of the grand jurors,*] gentlemen, good and lawful men of the county of L. aforesaid, then and there sworn and charged to inquire for our said lord the king, and for the body of the said county, it is presented in manner and form as followeth, that is to say, Lancashire, (to wit.) The jurors, &c. [*here set forth the indictment.*] Whereupon the sheriff of the said county is commanded to apprehend and take the body of the said A. S. and thereupon, at the same general quarter session of the peace, held by the said last-mentioned adjournment at the New Bayley court-house, within S. aforesaid, in and for the said county, the said seventeenth day of January, in the thirty-eighth year above said, before the said justices of our said lord the king above named, cometh the said A. S. in his proper person, and having had hearing of the said indictment aforesaid, was instantly to speak to this court, how he would acquit himself of the premises aforesaid, in the indictment aforesaid above charged and imposed on him, who saith that he is not guilty of the misdemeanours aforesaid, in the indictment aforesaid above alledged against him, and therefore of the good and evil thereof doth put himself upon the country; and E. L. esquire, attorney-general* of our said lord the king, of and for the county palatine of L. aforesaid, who for our said lord the king here in this behalf doth follow for our lord the king, doth so likewise. Therefore it is commanded that the sheriff of the county palatine of L. aforesaid omit not, by reason of any liberty within his bailiwick, to cause to come before the justices of our said lord the king, assigned to keep the peace of our said lord the king in the county of L. and also to hear

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and determine divers felonies, trespasses, and other misdemeanours in the said county committed, at the general quarter session of the peace to be holden in and for the said county of L. by adjournment at the New Bayley court-house, within S. aforesaid, in and for the said county, on Wednesday, the twentieth day of April, in the thirty-eighth year of the reign aforesaid, twelve good and lawful men of the vicinage of B. in the said county, every one of whom to have ten pounds a year at least in lands, tenements, or rents, by whom the truth of the matter may be better known, and who are in no wise related to the said A. S. to make a certain jury of the country between the said lord the king and the said A. S. in a plea of traverse; because as well the said lord the king as the aforesaid A. S. between whom the contention is, have put themselves on this account upon the said jury, the same day is given as well to the said E. L. esquire, attorney-general aforesaid, who prosecutes for our said lord in this behalf, as to the said A. S.

Wilts. Be it remembered that, at the session of oyer and terminer of our lord the king, held at New Sarum, in and for the county of Wilts, on Saturday the fourteenth day of March, in the seventh year of the reign of our sovereign lord George the third, king of Great Britain, &c. before the honourable sir Henry Gould, knight, one of the justices of his majesty's court of common pleas, the honourable James Hewitt, esquire, one of the justices of his majesty's court of king's bench, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to them the said sir Henry Gould, James Hewitt, and others, some two or more of them directed, (of whom some one of them the said sir Henry Gould, knight, and James Hewitt, esquire, our said lord the king willed to be one,) to inquire more fully the truth, by the oath of good and lawful men of the said county, and by other ways, means, and methods by which they should or might better know, as well within liberties as without, by whom the truth of the matter might be the better known and inquired into, and of all treasons, misprisions* of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain, and other kingdoms or dominions whatsoever, and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, de-

Issue where indictment preferred at assizes for Wiltshire, under commission of oyer and terminer. (c)

[* 282]

Plea.

Award of venire.

ceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them within the said county, as well within liberties as without, by whomsoever and in what manner soever done, committed, or perpetrated; and the said treasons, and other the premises, according to the laws and customs of England for this time, to hear and determine, by the oath of Thomas Goddard, J. J. C. P. &c. [*here insert the names of the jurors by whom the bill was found,*] esquires, good and lawful men of the said county, then and there sworn and charged to inquire for our said lord the king for the body of the said county, it is presented in manner and form following, that is to say, [*here set out the indictment.*] At which same session of oyer and terminer of our said lord the king, holden at New Sarum aforesaid, in and for the said county, on the said fourteenth day of March, in the seventh year of the reign aforesaid, before the same justices cometh the said R. B. in his own proper person, and having heard the said indictment read, says he is not guilty thereof, and thereupon puts himself upon the country, and R. M. esquire, clerk of the assize, and clerk of the crown of the said county, who prosecutes for our said lord the king in this behalf, doth the like: therefore the sheriff of the said county is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he cause to come before the justices of our lord the king, at the next session of oyer and terminer to be holden for the said county, twelve good and lawful men of the parish of C. aforesaid, by whom the truth of the matter will be the better known, and who have no affinity to the said R. B. to recognize upon their oath, whether the said R. B. be guilty of the premises in the indictment aforesaid above specified or not, because as well as the said R. M. who, &c. as the said R. B. have put themselves upon that jury; the same day is given to the parties, at the same place, &c.

[* 283]
Issue at assizes on indictment for the county where some of the defendants pleaded guilty, one pleaded not guilty, and the other did not appear, with award of jury-process to coroners, (one of the defendants having been

Wilts. Be it remembered that at the session of oyer and terminer, [*state the caption*] by the oath of A. B. &c. good and lawful men, &c. it is presented as follows: [*here set out the indictment.*] Whereupon the sheriff of the said county is commanded that he do not omit, by reason of any liberty in his bailiwick, but that* he, the said sheriff, the said C. D. and E. F. [*the defendants,*] cause to come before the justices of our said lord the king at the next sessions of oyer and terminer of our said lord the king to be holden for the said county, to answer our said lord the king touching and concerning the premises. At which next sessions of oyer and terminer of our said lord the king, holden at New Sarum aforesaid in and for the said county, on Saturday, the sixth of March, in the thirteenth year of the reign, &c. (insert the caption of the assizes as ante 281,2, to the words "for this time to hear and determine," and then proceed as fol-

lows,) the said C. D. and E. F. &c. (two of the defendants,) ^{elected} in their proper persons come, and having heard the indictment read severally, say that they are guilty of the premises in the indictment aforesaid above specified, in manner as there charged against them, and they put themselves on the mercy of our said lord the king; but because the said justices last above named, &c. now here, are not yet advised what judgment to give in the premises aforesaid, a day is therefore given as well to John Follett, esquire, clerk of the assizes, and clerk of the crown of the said county, who prosecutes for our said lord the king in this behalf, as to the said C. D., J. P. [*and the other defendants,*] until the next session of oyer and terminer of our said lord the king, to be holden for the said county. And at the same session of oyer and terminer of our said lord the king, holden at New Sarum aforesaid, in and for the said county, on Saturday, the sixth of March, in the thirteenth year aforesaid, before, &c. [*state caption*] cometh the said E. P. the elder, in his proper person; and the said E. P. the elder, having heard the said indictment read, saith that he is not guilty, and thereupon he puts himself upon the country, and the said John Follett, who prosecutes for our said lord the king in this behalf doth so likewise. And at the same session of oyer and terminer last above mentioned, the said E. P. the younger, doth not come, wherefore the sheriff of the said county is commanded, as before, that he do not omit, by reason of any liberty in his bailiwick, but that he cause the said E. P. the younger, to come before the justices of our said lord the king, at the next sessions of oyer and terminer of our lord the king, concerning the premises aforesaid, and because the said E. P. the elder, since the finding of the indictment aforesaid, hath been elected and appointed sheriff of the county aforesaid, and now is sheriff of the county aforesaid, the coroners of the said county are commanded that they do not omit by reason of any liberty in the county of Wilts aforesaid; but that they cause to come* before the justices of our said lord the king, at the next session of oyer and terminer of our said lord the king, to be holden for the said county, twelve good and lawful men of the neighbourhood of the parish of B. aforesaid, by whom the truth of the matter may be better known, and who have no affinity to the said E. P. the elder, to recognize upon their oath, whether the said E. P. the elder is guilty of the premises in the indictment aforesaid above specified or not, because as well the said John Follett, who prosecutes for our said lord the king in this behalf, as the said E. P. the elder, have put themselves upon the same jury, the same day is given, as well to the said John Follett, who, &c. as to the said E. P. the elder.

[* 284]

(d) See form, 6 Wentw. 430.

Issue in K. B.
on an indictment
against the inhabi-
tants of a
parish re-
moved from
the sessions.
(e)

Pleas before our lord the king, at Westminster, of Trinity term, in the forty-second year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Amongst the pleas of the king.

Roll.

Somersetshire. Amongst the } Some time ago, that is to
indictments of this term. No. } say, on Wednesday, the
thirteenth day of January, in the forty-second year of the
reign of our sovereign lord George the third, by the grace of
God, of the united kingdom of Great Britain and Ireland,
king, defender of the faith, and in the year of our Lord
one thousand seven hundred and two, at the general quarter
session of the peace of our sovereign lord the king, held at
the city of W. in and for the county of S. before J. B. B.
esquire, chairman, sir J. C. H. &c. esquires, [*naming several,*]
and others their companions, justices of our said lord the
king, assigned to keep the peace of our said lord the
king in and for the county of S. aforesaid, and also to hear
and determine divers felonies, trespasses, and other misde-
meanours, done or perpetrated in the same county and so
forth, upon the oath of twelve jurors, good and lawful men
of the county aforesaid, then and there sworn and charged
to enquire, as well for our sovereign lord the king, as for the
body of the whole county of S. it was presented as followeth,
that is to say, [*here set out the indictment,*] which said indict-
ment our said lord the king afterwards for certain reasons
caused to be brought before him to be determined according
to the law and custom of England; wherefore the sheriff of
the said county of S. is commanded that he should not for-
bear, by reason of any liberty in his bailiwick, but that he
cause them to come to answer to our said lord the king
touching and concerning* the premises aforesaid: and now,
that is to say, on Friday next, after the morrow of the Holy
Trinity in this same term, before our said lord the king at
W. come W. P. and W. B. two of the inhabitants of the said
parish of N. C. for themselves and the rest of the inhabi-
tants of the said parish by J. O. J. their clerk in court, and
having heard the said indictment read, they say, that the
inhabitants of the said parish of N. C. are not guilty thereof,
and hereupon for themselves and the rest of the inhabitants
of the said parish they put themselves upon the country;
and J. T. esq. coroner and attorney of our said lord the
king, in the court of our said lord the king, before the king
himself, who for our said lord the king in this behalf prose-
cuteth, doth the like.

Issue in K. B.
B. on an in-

Pleas before our lord the king at Westminster, of Hilary term, in the fifty-third year at the reign of our sovereign

Removal by
certiorari
into K. B.

[* 285]
Defendant's
appearance
in K. B. and
plea and is-
sue.

(e) See form, Hand's Prac. 391, 385. 4 Wentw. 198.

lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Amongst the pleas of the king. Roll.

Cambridgeshire, to wit.

Some time ago } (that is to say),
amongst the indictments of this term. }
Friday, the 9th day of October, being Friday in the first week after the feast of Saint Michael the archangel, in the fifty-second year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith, and in the year of our Lord, 1812, at the general quarter sessions of the peace of our sovereign lord the king, holden at Cambridge, in and for the said county of Cambridge, before George Miller, esq. chairman, the Right Hon. Philip Earl of Hardwick, Richard Graves, &c. esquires, the Rev. J. H. &c. clerks, (*naming several*) and others their companions, justices of our said lord the king, assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdeeds in the said county done and committed upon the oaths of twelve jurors, good and lawful men of the county aforesaid, then and there sworn and charged, to enquire for our said lord the king and the body of the said county. It was found and presented as follows, (that is to say,) Cambridgeshire, to wit. The jurors of our sovereign lord the king upon their oath present that, &c. (*set out indictment*), which said indictment our said lord the king afterwards for certain reasons caused to be brought before him to be determined according to the law and custom of England. Wherefore the sheriff of the said county of Cambridge is commanded that he do not forbear, by reason of any liberty in his bailiwick, but that he cause them to come to answer to our said lord the king, touching and concerning the premises aforesaid,* and now (that is to say,) on Saturday next after the octave of St. Hilary, in this same term, before our said lord the king of Westminster, come the said H. B. J. T. &c. by William Samuel Jones, their clerk in court; and having heard the indictment read they severally say that they are not guilty thereof. And hereupon they severally put themselves upon the county, and James Templer, esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in his behalf prosecuteth, doth the like.

dictment removed by certiorari from Cambridge sessions.

Removal by certiorari.

[* 286] Appearance of defendant in K. B. and plea not guilty.

Similiter.

Pleas before our lord the king at Westminster, of Easter term, in the fortieth year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain and Ireland, king, defender of the faith, and so forth.

Issue in K. B. on an indictment removed from the assizes against the

mayor and
burgesses of
a town, for
not cleansing
and repair-
ing a port,
plea of not
guilty, and
issue there-
on. (f)

Amongst the pleas of the king. Roll.

Northumberland being the next
adjoining county to the town
of N. upon T. and county of
the same town. Amongst the
indictments of last Michael-
mas term. No. 1.

To wit. Some time ago,
that is to say, on Saturday,
the twentieth day of July,
in the thirty-ninth year of
of the reign of our sover-
eign lord George the third,

now king of Great Britain, and so forth, at the general session
of oyer and terminer of the lord the king holden at the cas-
tle of N. upon T. in and for the county of N. before the
honourable Sir S. L. Knight, one of the justices of our lord
the king, assigned to hold pleas before the king himself, the
honourable Sir S. le B. knt. one other of the justices of our
lord the king assigned to hold pleas before the king himself,
and others their fellows, justices of the said lord the king,
assigned by letters patent of our said lord the king under
his great seal of Great Britain, to the said justices before
named, and others their fellows, justices aforesaid, and any
two or more of them directed, of whom one of them, the
said Sir S. L. and Sir S. le B. amongst others in the said
letters patent named, the said lord the king willed should be
one as well to hear and determine, (g) and to deliver the
gaol of the said lord the king there, as to enquire the truth
more fully by the oaths of good and lawful men within the
said county of N. and by other ways, means and measures by
which they should or might the better know, as well within
liberties as without, by whom the truth of this matter might
be the better known and inquired into, concerning all treasons,
misprisions of treason, insurrections, rebellions, murders, kill-
ings, felonies, burglaries, rapes of women, unlawful meetings
and* conventicles, unlawful uttering of words, assemblies,
misprisions, confederacies, false allegations, trespasses, riots,
routs, retentions, escapes, contempts, falsities, negligences,
concealments, maintenances, offences, and injuries whatso-
ever, as also the accessaries of the same within the county of
N. aforesaid, as well against the form of whatsoever statutes
as the common law within the county of N. aforesaid, by
whomsoever, and after what manner soever done or com-
mitted, and by whom and to whom, when, how, and after
what manner, and of all other articles, things, and circum-
stances that concern the premises, or any of them, in any
manner whatsoever, and to hear and determine according to
the laws and customs of England, the same treasons, insur-
rections, rebellions, murders, killings, unlawful meetings and
conventicles, unlawful uttering of words, and other the pre-
mises by the oath of twelve jurors, good and lawful men of

[* 287]

(f) Hand. Prac. 394.

(g) Set out the form of cap-

tion carefully. See ante 192.

Hand. Prac. 394.

the said county of N. then there impanelled, sworn, and charged to enquire for our said lord the king, and the body of the said county of N. it was presented in manner and form as followeth, that is to say, Northumberland being the adjoining county to the town of N. upon T. and county of the same town. The jurors, &c. [*here set out the indictment,*] which said indictment our said lord the king afterwards for certain reasons caused to be brought before him to be determined according to the law and custom of England. Wherefore the sheriff of the said county of N. is commanded that he do not forbear, by reason of any liberty in his bailiwick, but that he cause them to come to answer to our said lord the king touching and concerning the premises aforesaid. And now, that is to say, on Wednesday next, after fifteen days from the feast day of Easter in this same term, before our said lord the king at W. come the mayor and burgesses of the town of N. upon T. aforesaid, by H. T. their clerk in clerk in court, and having heard the said indictment read, they say that they are not guilty thereof, and hereupon they put themselves upon the country, and J. T. esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecuteth, doth the like.

Kent. Be it remembered that Richard Pepper Arden, esquire, late attorney general of our present sovereign lord the king, who for our said lord the king in this behalf prosecuteth in his proper person, came here into the court of our said lord the king, before the king himself at Westminster, on Monday next after the morrow of All Souls, in the twenty-seventh year of the reign of his present* majesty, and for our said lord the king, brought into the court of our said lord the king, before the king himself, then there a certain information against C. D. late of the parish of Saint Paul, Deptford, in the county of Kent, waterman, which said information follows in these words, that is to say:—Kent. Be it remembered, &c. (*set out the whole of the information,*) wherefore the sheriff of the said county of Kent was commanded that he should not forbear, by reason of any liberty in his bailiwick, but that he should cause to come the said C. D. to answer to our said lord the king touching and concerning the premises aforesaid. And now, that is to say, on Friday next after the morrow of All Souls, in this same term, before our said lord the king at Westminster, cometh the said C. D. by — his clerk in court, and having heard the said information read, he saith that he is not guilty thereof, and hereupon he putteth himself upon the country, and Sir Archibald Macdonald, knight, now attorney general of our

Issue on a
plea of not
guilty to an
information
filed by a
former attor-
ney-general.
(h)

[* 288]

said lord the king, who for our said lord the king in this behalf prosecuteth, doth the like.

RECOGNIZANCE TO TRY TRAVERSE.

Practice on prosecutions for misdemeanours at sessions, of reading indictment, receiving plea, and taking recognizance to try traverse. (i)

Recognizance to try traverse. (k)

[* 289]

Prosecutor's notice in K. B. of trial of a misdemeanour at sittings after term. (l)

The practice is stated to be as follows:—The party indicted comes into court and brings with him two sufficient housekeepers for his pledges, and his solicitor makes a note of their names and additions, which he delivers to the clerk in court who is to take the recognizance. Then the clerk reads the indictment to the party indicted, and says, "Are you guilty, or not guilty?" and the person indicted says, in general, "Not guilty," which is the mode of pleading the general issue. Then the clerk the party indicted by names and take the recognizance in the following manner:—

A. B. you acknowledge to owe to our sovereign lord the king the sum of 40*l*. C. D. and E. H. (*the pledges*) you and each of you acknowledge to owe to our sovereign lord the king the sum of 20*l*. to be levied upon your several goods and chattels, lands and tenements, by way of recognizance to his majesty's use, upon condition that if you A. B. shall be and appear at the next session of the peace to be holden for this county (sometimes are here added, "and within the three first days of the same session,") to try your traverse upon the indictment to which you have now pleaded not guilty, and not to depart the court without leave. Are* you content? To which the defendant and his pledges severally answer, "Yes," or "we are contented," and then may leave the court.

The King
against

Edward Rich.

Middlesex.

Whereas in Trinity term last an indictment was preferred and found against you the above named defendant for certain misdemeanours, in publishing certain obscene libels, to which indictment you appeared and pleaded not guilty, in person, in his majesty's court of king's bench, at Westminster, and you will now take notice, that you will be tried upon the same indictment at the sittings of nisi prius to be held after this present Michaelmas term, in the said court of king's bench, at Westminster, in and for the county of Middlesex. Dated this 20th day of November, 1806.

Yours, &c. R. and F.

To Mr. Edward Rich, Solicitors for the prosecution.
the above named defendant.

(i) See Williams, J. Sessions. C. C. 7th Ed. 751. Dick. Sess. Dick. Sess. 152. Ante 1 vol. 486. 152. Ante 1 vol. 486.

(k) Williams, J. Sessions. Cro. (l) Ante 1 vol. 488.

In the king's bench.

Sir,

Notice of trial is given by the prosecutor for the sitting of nisi prius, to be holden after this term in and for the county of Middlesex.

Crown-office,
Nov. 21st, 1814.

The King
against
C. D.

I am, yours, &c.

E. F.
after term in

Notice in K. B. by defendant's clerk in court, to defendant's solicitor, that prosecutor has given notice of trial for sittings in Middlesex.

In the king's bench.

Sir,

The notice of trial given by the prosecutor for the sitting of nisi prius, to be holden after this term, in and for the county of Middlesex, is this day countermanded.

Crown-office,
Dec. 5, 1814.

The King
against
C. D.

I am, sir, yours,

E. F.

Notice by clerk in court of defendant, to defendant's solicitor, of the countermand of notice of trial.

In the king's bench.

The King
against
C. D.

[* 290]

J. P. of —, attorney for the above named defendant, maketh oath and saith, that on Tuesday the ninth day of May last past, the above named prosecutor preferred, at the general sessions of the peace holden at the great sessions-house in and for the* county of Middlesex, an indictment against the above named defendant for a certain offence therein alledged to have been committed by the above named defendant, and a true bill was found at the same sessions, and thereupon the above named prosecutor removed the said indictment into this honourable court, and the above named defendant pleaded thereto, and issue was joined thereon. And this deponent further saith, that on the twenty-first day of November last past, the above named prosecutor delivered, or cause to be delivered, the issue with notice of trial thereon for the sittings at nisi prius, to be holden after Michaelmas term last past, and the said indictment was set down for trial according to such notice. And this deponent further saith, that in consequence of such notice of trial the above named defendant was compelled to prepare briefs, fee counsel, issue several subpœnas, and pay several sums of money therewith, and the said indictment was appointed to be tried on Thursday the 7th day of December last. And this deponent further saith, that after the said briefs had been delivered, fees paid to counsel, subpœnas issued, and conduct money paid therewith, the above named prosecutor, by Messrs. G. and M. his attornies, on Tuesday the 5th day of December, at one quarter of an hour before eight o'clock in the evening, delivered, or caused to be delivered, a countermand of notice of the above mentioned trial to be served on this deponent,

Affidavit by attorney for defendant, that notice of trial had been countermanded by the prosecutor, after he had been at great expence in retaining counsel, &c.

and the said indictment now remains at issue to the great prejudice and expence of the above named defendant.

Sworn, &c.

O. P.

Defendant's
notice of in-
tention to
try traverse.
(m)

The King
on the prosecution of A. B.
against
C. D.

Mr. A. B.

Take notice that I intend to appear at the next general or general quarter sessions of the peace to be holden at ("or to be holden by adjournment at") the Guildhall, in —, in and for the county of M. on — next, being the — day of — by — o'clock in the forenoon of the same day, and then and there try my traverse upon the indictment which you have preferred against me for assaulting you.

Dated, &c.

C. D.

To A. B. of —

[* 291]
The like in a
modern
form. (n) ;

The* king for the prosecution of
Henry Charles Elsegood
against
John Green.

Mr. Henry Charles Elsegood,

Take notice, that I intend to appear at the next general session of the peace to be holden at the sessions house in Clerkenwell-green in and for the county of Middlesex, on Monday the 13th day of February instant, by ten of the clock in the forenoon of the same day, and then and there try my traverse upon the indictment you have preferred against me for assaulting you. Dated the 6th day of February, 1815.

Your's, &c.

John Green.

Witness,

Wm. Smee.

Defendant's
continuance
of the like
to another
day.

The king on the prosecution of
Henry Charles Elsegood
against
John Green.

Take notice, that I shall personally appear at the next general sessions of the peace to be holden at the sessions house on Clerkenwell-green, in and for the county of Middlesex, on Tuesday the 14th day of February instant, instead of Monday the 13th, as mentioned in my former notice served on you the 6th day of February instant, at ten of the clock in the forenoon of the same day, and then and there plead not guilty to, and try my traverse on, the indictment preferred by you against me for an assault. Dated this 11th day of February, 1815.

Your's, &c.

John Green.

(m) Ante 1 vol. 488. Wil- 298. Dick. Sess. 153.
liams, J. tit. Sessions. Cro. C. C. (n) Ante 1 vol. 488.

To Mr. Henry Charles Elsegood,
the above prosecutor.

Witness,

Wm. Smee.

The king on the prosecution of
Henry Charles Elsegood
against
John Green.

Affidavit of
the service
of the last
two notices.
(o)

William Smee, of Furnival's Inn, London, gentleman,
maketh oath and saith, that he did on the sixth day of Feb-
ruary instant, personally* serve the above named prosecutor,
Mr. Henry Charles Elsegood, with a true copy of the notice
hereunto annexed (No. 1), at his house situate in Parke-
street, Grosvenor-square, in the county of Middlesex. And
this deponent further saith, that he did, on the 11th of Feb-
ruary instant, personally serve the said Mr. Elsegood with a
true copy of the notice hereunto annexed (No. 2), at his
house situate as aforesaid.

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Wm. Smee.

Sworn in court,
this 14th of February, 1815.

Richards.

The King
against

Affidavit of
service of
defendant's
notice of
trial of tra-
verse (p)

J. D. on the prosecution of W. D. for an assault.
Middlesex. A. B. of, &c. solicitor for the defendant in
this prosecution, maketh oath, that on Saturday last, being
the ——— day of ———, at the dwelling-house of W. D.
the prosecutor in this cause, situate in Soho-square, in the
county of Middlesex, he, this deponent, did personally serve
the said W. D. with a true copy of the notice hereunto an-
nexed, and at the same time did inform the said W. D. of
the contents and purport thereof; and this deponent believes
that such notice hath not been countermanded.

A. B.

Sworn at the new sessions-house,
this ——— day of ———, 1798.

By the court.

Middlesex. At the general quarter session of the peace of
our lord the king, holden in and for the
county of Middlesex, at the session-house
for the said county (by adjournment), on
Friday the 27th day of October, in the 56th
year of the reign of our sovereign lord George the third, by
the grace of God, of the united kingdom of Great Britain
and Ireland king, defender of the faith.

Order for
service of
notice at
clerk of
peace's of-
fice. (q)

(o) Ante 1 vol. 488, 9.

Ed. 298. Ante 1 vol. 489.

(p) See form, Cro. C. C. 8th

(q) Ante 1 vol. 489.

in sequence
which, for
Lons, No. 1
Pittsburgh,
don shall

The king
against
John Brownsdon, } on the prosecution of Peter
for an assault.

[* 293] Upon reading the affidavit of John Brownsdon, 32, Wellesley-street, Euston-square, New-road, in the county of Middlesex,* gardener, the above named defendant Mason, of No. 4, Hampden-street, Somers-town, in the county, carpenter, and Wm. Kems, of No. 32, Wellesley-street, aforesaid, carpenter, bail for the above-named defendant, it is ordered, that notice of trial to be left in the office of the clerk of the peace for this county for the first day of the next session, be deemed good service (in case the prosecutor or his present abode cannot be found in the mean time,) and that the recognizance for the defendant's appearance do stand respited.

By the court.

Selby.

Notice to
put off trial
for absence
of material
witnesses.
(r)

The king
against

M. C. on the prosecution of T. B.

Mr. T. B. Take notice, that I do hereby countermand the notice of trial of the above indictment, dated the ——— day of ——— instant, and that I shall to-morrow, being the ——— day of this instant ———, at the sitting of the court at the new sessions-house on Clerkenwell-green, move the said court by counsel, that the trial of the above indictment may stand over till the next general (or "general quarter") session of the peace to be there holden, and that the recognizance by me and my sureties entered into for the trying of the traverse on the above indictment at the ensuing sessions may in the mean time be respited, and the ground upon which this application to the court will be made, is upon an affidavit that I have not been able to serve or cause to be served with a subpoena a material witness on my behalf, without the benefit of whose evidence I am advised I cannot safely proceed to trial, of all which matters you have hereby notice, that you may come prepared to oppose the said application by counsel, if you shall think fit or be advised so to do. Dated this ——— day of ———, 1810.

Your's, &c.

M. C.

defendant in the above indictment.

To T. B.

the prosecutor in the above prosecution.

The king

v.

Wm. Roberts, the younger.

The like in
a more concise form. (s)

Take notice, that a motion will be made on ——— the

(r) Cro. C. C. 8th Ed. 299. 8
East. 33. Ante 1 vol. 492.

(s) 8 East. 33. Ante 1 vol. 492.

— day* of March instant, or as soon after as counsel can [* 294]
be heard, that the trial of this indictment may be put off
until the next summe assizes to be held in and for the coun-
ty of York, on account of the absence of two material wit-
nesses on behalf of the defendant. Dated this — day
of March, 1814.

Your's, &c.

Thos. Lake,

solicitor for the above named defendant.

To Messrs. Upton, Nicholson, and
Hemingway, solicitors to the
prosecutor.

The king on the prosecution of Benjamin Musgrave, Affidavit by
a defendant
and his soli-
citor to put
off trial that
material wit-
nesses are
abroad, that
ineffectual
endeavours
have been
made to
serve them
with subpoe-
nas, but that
they are ex-
pected home
in about a
month. (t)

v.

William Roberts, the younger.

William Roberts, the younger, a prisoner in York Castle, the above named defendant, against whom a commission of bankruptcy hath been awarded and issued, and is now in pro-secution, and Thomas Lake, of Dowgate-hill, in the city of London, solicitor for the said Wm. Roberts, severally make oath and say, and first this deponent, the said Wm. Roberts for himself saith, that Joseph Linsley, the younger, formerly of New York, in the United States of America, but now of Leeds, in the county of York, merchant, and John Lambert, of the same place, agent or traveller to Messrs. James Browne and Co. of Leeds aforesaid, merchants, are respec-tively material and necessary witnesses for him, this depo-nent, the said Wm. Roberts the younger, as he is advised and believes to be true, and that he cannot safely proceed to the trial of the above indictment without their respective testimony ; and this deponent, the said Wm. Roberts, fur-ther saith, that he hath lately frequently applied by letter to Messrs. Tottie, Richardson, and Gaunt, of Leeds aforesaid, solicitors, to enquire if the said Joseph Linsley was there, and this deponent was informed by the said Messrs. Tottie, Richardson, and Gaunt, attornies at Leeds, that the said Joseph Linsley was in the kingdom of Portugal, and that he was expected to return home from thence in the course of three weeks, and which information he believes to be true ; and this deponent, the said Wm. Roberts for himself, further saith, that he has lately frequently applied by letter to the said Messrs. Tottie, Richardson, and Gaunt for them to enquire of the employers of the said John Lambert, at Leeds aforesaid, if he was there, if not there where he was, and when he would re-turn home ; and this deponent hath been informed by the said Messrs. Tottie,* Richardson, and Gaunt (and which informa-tion he believes to be true), that he is in Ireland, but is ex-

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(t) 8 East 33. Ante 1 vol. 493.

pected to be at Leeds aforesaid in a month or very shortly afterwards; and that he this deponent, the said Wm. Roberts, hopes and expects to be able to procure the presence of the said Joseph Linsley and John Lambert at the next assizes to be held at the castle of York, both of whom this deponent believes will be then ready and willing to attend the said trial. And this deponent, the said Thomas Lake for himself, saith, that the above named Joseph Linsley and John Lambert are material witnesses for the above named Wm. Roberts, and without whose testimony the said Wm. Roberts cannot safely go to trial of the above mentioned indictment; and this deponent, the said Thos. Lake for himself further saith, that he this deponent hath also frequently written to the said Messrs. Tottie, Richardson, and Gaunt to enquire if the said Jos. Linsley and John Lambert were at Leeds, and did, on the 23d day of March instant, send a subpoena to be served on them to give evidence on the trial of this indictment at the present assizes; and that this deponent hath been informed by Messrs. Tottie, Richardson, and Gaunt, that the said Jos. Linsley is now in Portugal or on his return home, and that the said John Lambert is now in Ireland, but that they are both expected home in the course of three weeks or a month; and this deponent, the said Thos. Lake for himself, further saith, that he hopes and expects to be able to procure the attendance of the said Jos. Linsley and John Lambert at the next summer assizes to be held in and for the county of York. And this deponent, the said Wm. Roberts, further saith, that he has in, or as of last Hilary term commenced an action of trespass, in his majesty's court of king's bench, against the commissioners Messrs. ———, solicitors and assignees under the commission of bankruptcy awarded and issued against this deponent, bearing date on or about the 6th day of May last, to try the validity thereof. And this deponent, the said Wm. Roberts, further saith, that he did also, in Easter term last, file his bill of complaint in the court of exchequer against Wm. Walker and Geo. Coggill, of Wortley, in the said county of York, the petitioning creditors under the commission for the purpose of settling and determining the award or umpirage of John Hardy, of Bradford, in the said county, esquire, made between the parties; and that an injunction might issue to restrain the said Wm. Walker and Geo. Coggill from all proceedings at law against this deponent, and which injunction was granted on or about the 15th day of June last; and the said Wm. Walker and Geo. Coggill have not yet put in their answers to the said bill, and which suit and action are now pending, and* it is this deponent's intention to proceed to trial in the said action forthwith; and this deponent, the said Wm. Roberts, further saith, that he has also presented a petition to the lord chancellor for the purpose of superseding the said

commission, and his lordship has been pleased to order that all parties, or their agents, are to attend him on the matter of the said petition, and the proceedings under the said commission are to be produced the then next day of petitioning, and the same has not yet been heard.

Sworn, &c.

This rule was obtained upon an affidavit of the defendant, which, after stating generally that an indictment had been found against him, charging him with breach of duty in his capacity of commissary-general of stores, &c. in 1796 and 1797, (as before mentioned) concluded in the common form of an affidavit for putting off a trial on account of the absence of a material witness, that certain persons (by name) and several other persons were now in the West Indies; and that he was advised and believed that their evidence would be material for him upon the trial. Short affidavit for putting off trial. (u)

That the indictment was found on the 25th of June last, to which he had pleaded without delay. That certain persons (naming them) were acquainted with several of the dealings and transactions which took place between the defendant and Matthew Higgins, in the indictment mentioned, in the West Indies in 1796 and 1797, relating to the supplying the vessels, stores, and provisions, &c. in the indictment. And that, amongst the other witnesses referred to but not named in the defendant's first affidavit, resident in Barbadoes, &c. or some of the other leeward islands, whose evidence he was advised and believed would be material for him on the trial, was W. W. who he believed was now resident in Barbadoes, and who, during the years 1796 and 1797, was the clerk and book-keeper of the said M. Higgins, at head-quarters; and who kept and settled many accounts between the said M. H. and the defendant, respecting the vessels, stores, &c. supplied by M. H. for the use of the British army; and on the departure of M. H. was left as his attorney, and as such had other dealings on the same account with the defendant, and received payments on account. And it concluded with stating, that the application was not for delay, but to obtain evidence, which the defendant was advised and believed to be material. Special affidavit for putting off trial on absence of material witness. (w)

Middlesex, (to wit.) A. B. of ———, in the said county, surgeon,* maketh oath, and saith that C. D. of ———, yeoman, is confined to his house by severe illness, and that this deponent saw the said C. D. yesterday, and verily believes he is incapable of travelling without manifest danger of his life. [* 297] Affidavit of illness, to excuse attendance at sessions. (x)

Sworn, &c.

A. B.

(u) 8 East, 33. Ante 1 vol. 493. vit should be made by a medical man if convenient, ante 1 vol. 494.
 (w) See 8 East. 35.
 (x) See Toone, 7. This affida-

Rule for mandamus to examine witnesses, &c. in West Indies, under 42 Geo. III. c. 85 s. 5. and why trial should not be put off until return of mandamus. (y)

“ Why several writs of mandamus should not issue, directed to the chief justice and judges of the court of [*inserting the proper description of the courts,*] for the several islands of Barbadoes, Grenada, and Dominica, in the West Indies, respectively, requiring them to hold courts, with all convenient speed, for the examination of witnesses, and receiving other proofs concerning the matters charged in the indictment in this prosecution; and in the mean time to cause such public notice to be given of the holding of the said courts respectively, and to issue such summons or other process as may be requisite for the attendance of witnesses, and to adjourn from time to time, as occasion may require, pursuant to the stat. 42 Geo. 3. for the trying and punishing in Great Britain persons holding public employments, for offences committed abroad, and to perform all such other matters and things as by the said statute is required: and why the examination and proofs to be thereupon taken should not be transmitted by some person or persons coming from the said islands respectively, and to be delivered upon oath in such form as this court should direct to H. D. and H. B. the clerks in court of this court, or one of them in the crown office, for the safe custody thereof, and in order to their being read in evidence on the trial of the issue joined in this prosecution, or any other subsequent proceedings thereon or relating thereto; and why the trial should not be put off until the return of the said several writs of mandamus, upon notice of this rule to the attorney or agent of the prosecutor in the mean time.”

Recognizance to pay extra costs under 38 Geo III. c. 52. after indictment found where trial to be in adjoining county. (z)

Entries in the minute book for the northern circuit, in Thomas Elliott's case, at Newcastle assizes, 4th August, 1798, on stat. 38 Geo. III. c. 52.

The King against Thomas Elliot, for arson and felony, removed by habeas corpus from the gaol of the town of Newcastle-upon-Tyne, and county of the same town, at the instance of the said Thomas Elliot, to the gaol of the county of Northumberland.

Thomas Elliot, of, &c.

40/.

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On condition that he the said Thomas Elliot do and shall pay the extra costs attending this prosecution in the county of Northumberland,* provided the court there shall be of opinion that he ought to pay the same, pursuant to the statute in that behalf made.

Order of court on 38 Geo. III c. 52 for trial in adjoining

Order.

At the general delivery, &c.

Whereas it appears to this court that a certain bill of indictment, for arson, now here found by the grand jury of the

(y) Ante 1 vol. 491. 8 East, 31.

(z) From Mr. Nicholl's MS. 146. Ante 1 vol. 496.

said town and county, against Thomas Elliott, late of, &c. is fit and proper to be tried by a jury of the county of Northumberland, being the next adjoining county to the said town and county of Newcastle-upon-Tyne, and the said T. E. having entered into a recognizance, in the sum of 40*l.* conditioned for the payment of the extra costs attending the prosecuting for such offence in the said next adjoining county, provided the court before whom the trial is had shall be of opinion he ought to pay the same. It is at the request of the said T. E. ordered by this court, that the said indictment and the several recognizances, examinations, and prosecutions, relative to the said indictment, be filed with the proper officer, and be by him kept, among the records of the court of oyer and terminer, and general gaol delivery, for the said next adjoining county; and it is further ordered that the said T. E. the defendant in the said indictment, be removed by writ of habeas corpus, to the gaol of the said next adjoining county, in order to his trial in the said next adjoining county for the said offence.

By the court,

Rigge.

Entry in Northumberland.

Puts self, jury say not guilty.

Thomas Elliott, for arson, in burning the dwelling-house of Matthew Brown, &c. upon-Tyne, and ordered by that court to be tried

Removed by habeas corpus from the town of Newcastle. here. (b)

The King
against
James Russel.

Upon the application of Mr. B. for and on behalf of Thomas Wilst, of the town of Kingston-upon-Hull, the prosecutor of the above named J. R. I do order that a writ of habeas corpus be issued, directed to the sheriff of the town and county of Kingston-upon-Hull,* and to the keeper of his majesty's gaol for the said town and county, to remove the body of the said J. R. committed to the said prison, and charged with the wilful murder of G. Russell, to his majesty's gaol for the county of York, in order that he may, at the next assizes for the last-mentioned county, be tried for the same, and that a like writ do issue directed to the sheriff of the said last-mentioned county, and to the keeper of his majesty's gaol for the same, to receive the body of the said J. R. and him safely keep until he shall be discharged by due course of law. Dated the 28th day of June, 1798.

Judge's order on removal into next adjoining county for habeas corpus, to bring up and remove prisoner under 38 Geo. III. c. 52. [c] [* 299]

S. Lawrence.

(a) From Mr. Nicholl's MS. 146.

146. Ante 1 vol. 495.

(c) From Mr. Nicholl's MS.

(b) From Mr. Nicholl's MS. 150, and see ante 1 vol. 495.

N. B. Notice must be given to all persons bound by recognizance, to give evidence ten days before the assizes that the indictment will be preferred at York; and the magistrates before whom they were taken must have notice to return the recognizances to that assizes.

Judge's order on coroner for removal of coroner's inquest, &c. where trial is to be, in next adjoining county, on 38 Geo. III. c. 52. (d)

Whereas a writ of habeas corpus has issued to remove from his majesty's gaol of the town and county of Kingston upon-Hull, to his majesty's gaol for the county of York, the body of J. R. in order that the said J. R. at the next sessions of oyer and terminer and general gaol delivery for the said last mentioned county, may be indicted and tried for the wilful murder of G. R. wherewith he stands charged, I do hereby order and direct that you do return to the said next session of oyer and terminer and general gaol delivery, to be holden for the said last mentioned county, all inquisitions, examinations, and depositions, by you taken touching the death of the said G. R.

Dated the 29th day of June, 1798.

To the coroner of the town and }
county of the town of King- }
ston upon Hull.

S. Lawrence.

Habeas corpus to a sheriff of one county, to deliver prisoner with cause of detention to sheriff of another county, in order that he may be committed to gaol of latter. (e)

George, &c. To the sheriff of the county of ———, greeting, we command you that the body of J. Wood in our prison, under your custody being committed and detained, you do immediately deliver to our sheriff of the said county of ———, and that you certify to our sheriff of the county of ——— the cause of the taking and detaining of the said J. W. to the end that our said sheriff of the county of ——— may safely convey the said J. W. to our gaol of the county of ——— aforesaid, without delay, according to the form of our writ to him directed, there to remain until he shall* be from thence delivered by due course of law, and this you are not to omit at your peril. Witness, &c.

Writ of recipias thereon to sheriff of county to which prisoner is to be removed. (f)

[* 300]

George, &c. To sheriff of ———, greeting. Whereas we (for certain causes us thereunto moving) being willing that the body of J. W. being in our prison, under the custody of our sheriff of ———, should be from thence directly brought to you, we have by our writ late commanded our said sheriff of ——— that he should deliver the said J. W. to your custody without delay, and that he should certify to you the cause of the taking and detaining of the said J. W. We therefore command you that you receive the aforesaid J. W. from the said sheriff of ———, and that you cause him to be safely conveyed to our gaol in your custody without delay, and that you cause him to be detained in the same under safe custody until he shall be from thence delivered by due

(d) From Mr. Nicholl's MS. Ante 1 vol. 494. 38 Geo. III. c. 150. 52. s. 3.

(e) From Mr. Nicholl's MS.

(f) From Mr. Nicholl's MS.

course of law, and this you are not to omit at your peril.
Witness, &c.

Wednesday next after fifteen days from the Holy Trinity Rule to shew
in the second year of king George the third. cause why
City of Gloucester, the King } Upon reading the affidavit the trial
against Gabriel Harris and } of Thomas Rickstock and should not
two others. } others it is ordered that Tues- be by a jury
day next be given to the defendants to shew cause why this of the county
cause should not be tried at the next assizes to be held in at large, in-
and for the county of Gloucester, by a jury of the said county stead of a
of Gloucester, instead of the city, upon notice of the said jury of the
rule to be given to the said defendants in the mean time. city. (g)

And hereupon the coroner and attorney of our said lord Entry of sug-
the king, by virtue of the statute in such case made and pro- gession in a
vided, prays the court of our said lord the king, now here, to record from
direct that the said issue so joined upon the said indictment crown office
may be tried by a jury of the county of Lincoln, being to try in next
the county next adjoining to the city of Lincoln and coun- county. (h)
ty thereof, and to award proper writs of venire and dis-
tringas accordingly, and the said court of our said lord the
king, now here, thinking it fit and proper so to do. There-
fore let a jury of the said county of Lincoln come before our
said lord the king, &c.

At the end of the last similiter say, and hereupon the said Suggestion
coroner and attorney of our said lord the king, for our said to try an is-
lord the king, saith, that the mayor of the said city of Ches- sue (joined
ter for the time* being, is the only person before whom the in an infor-
several issues above joined between our said lord the king mation) by
and the said W. W. can or ought to be tried within the county pala-
said city, and that P. E. esq. the now mayor of the said tine, instead
city, who is to continue in the office of mayor of the said of men of the
and as mayor of the said city, until Friday next after the city of Ches-
feast of Saint Dennis next coming, and which feast of Saint ter, on
Dennis is, and always was, on the ninth day of Octo- ground of in-
ber in each year, and also the sheriffs and coroners of terest of cor-
the said city, and all other the citizens and commonalty poration. (i)
of the said city are concerned in interest in the event of [* 301]
the trial of the said issues, and for that reason the said coro-
ner and attorney prays that the tenor of the record of the
said several issues may be sent by virtue of his majesty's
writ of mittimus to the justices of our said lord the king of
his county palatine of Chester, commanding them that they
proceed to the trial of the said several issues in the said coun-
ty palatine, as of right and according to law and the custom
of the said county palatine it hath been used in such cases,
and when the said several issues shall be there tried, that then

(g) See form, 3 Burr. 1330. 152.

Ante 1 vol. 495.

(i) Cro. C. C. 8th Ed. 461.

(h) From Mr. Nicholl's MS. Ante 1 vol. 495.

they send back to the court of our said lord the king, before the king himself at Westminster, the record of the said several issues with every thing that shall be done before them thereupon, together with the said writ of mittimus, at a certain day which they shall prefix or appoint in the said court of our said lord the king, as well for the said James Burrow, esquire, who prosecutes for our said lord the king in this behalf, as for the said W. W. to hear judgment thereupon, and because the said W. W. doth not deny the said allegation of the said coroner and attorney, but admits the same to be true, therefore for trying the said several issues above joined in manner aforesaid, let the tenor of the record of the said several issues be sent by virtue of his majesty's said writ of mittimus to the said justices of our said lord the king of his county palatine of Chester, commanding them that they proceed to the trial of the said several issues in the said county palatine, as of right and according to law and the custom of the said county palatine, it hath been used in such cases; and when the said several issues shall be there tried, that then they send back to the court of our said lord the king, before the king himself at Westminster, the record of the said several issues with every thing that shall be done before them thereupon, together with the said writ of mittimus, at a certain day which they shall prefix or appoint in the said court of our said lord the king before the king himself, as well for the said coroner and attorney* of our said lord the king, who prosecutes as aforesaid, as for the said W. W. to hear judgment thereupon.

[* 302] Entry of a suggestion upon the roll to try an issue (joined in an indictment found within the borough of Berwick) at the assizes for the county of Northumberland. (k)

Suggestion at the instance of the mayor, &c. of London, that one of the coroners for Middlesex may return a venire

At the end of the similiter say, And because the borough of Berwick is a place where the king's writ of venire facias to summon a jury to try the said issue doth not run, and because the burgesses of the said borough, by reason of their privileges, ought not to be put upon any jury to try the said issue out of the said borough, but the said issue ought to be tried by a jury of the county of Northumberland, which is the next adjacent county to the said borough of Berwick, which allegations of the said H. Cowle are not denied by the said James Burrow, esquire, therefore it is commanded to the sheriff of Northumberland, that he cause to come, &c.

At the end of the similiter say, Whereupon the said mayor and commonalty and citizens of the said city of London say, that A. B. and C. D. and no other person, do constitute and make one sheriff of and for the said county of Middlesex, and are both of them citizens and freemen of the said city, and that in and for the said county of Middlesex there now are, and always have been, two coroners for the said county and no more, and that E. F. one of the present coroners

for the said county, is now a citizen and freemen of the said facias, be-
city of London; for which causes the said mayor and com-^{cause the}
monalty and citizens do pray a writ of our said lord the king ^{sheriff and}
of venire facias to G. H. gentleman, the other coroner of the ^{the other}
said county of Middlesex, not being a citizen and freeman of ^{coroner}
the said city, to summon twelve good and lawful men of the ^{were free-}
said county of Middlesex, to try the issue above joined, so ^{men of Lon-}
that the said A. B. C. D. and E. F. do in no sort act or in-^{don. (l)}
termeddle in the premises, and because the said N. B.
[the defendant] doth not deny the said allegations of the
said mayor and commonalty and citizens of the said city,
but admits the same to be true, therefore by the assent of
the said parties the said G. H. the said other coroner of
the said county of Middlesex, is commanded that he cause
to come, &c.

CHAPTER* XIII.

[* 303]

THE JURY PROCESS—PROCEEDINGS ON TRIAL—CHALLENGES AND SWEARING JURY.

Westmoreland. J. P. and H. P. esquires, two of the jus-^{Precept to}
tices of our sovereign lord the king assigned to keep the ^{summon a}
peace in and for the county aforesaid, and also to hear and ^{jury before}
determine divers felonies, trespasses, and other misdemean-^{sessions. (a)}
ours in the said county committed, to the sheriff of the said

(l) Cro. C. C. 8th Ed. 462. other cases, the *general* precept
Ante 1 vol. 495. ante, 171, &c. for summoning

(a) Burn, J. Riot, Rout, &c. the sessions is the process under
Williams, J. Riots, &c. Toone, which the jury for the trial of a
375. Ante 1 vol. 506. This traverse at the sessions is con-
special precept is only issued in vened. See also Burn, J. Jurors
cases of forcible entries, &c. In B.

Grim. Law.

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O o

county, greeting. On the behalf of our said lord the king we command you, that you cause to come before us at —, in the county aforesaid, on the — day of — next ensuing, twenty-four honest and lawful men of the county aforesaid, every one of which shall have lands and tenements within the said county to the yearly value of twenty shillings of charter land or of freehold, or twenty-six shillings and eightpence of copyhold, or both, over and above all charges, to enquire* for our said lord the king, and for our indemnity in this behalf upon their oath, of certain riots, routs, and unlawful assemblies at —, in the county aforesaid, lately committed, as it is said, and that you return upon every person, so by you to be impanelled, twenty shillings of issues at the aforesaid day, to be by them respectively forfeited if they shall not appear, and be sworn to enquire of the premises at the same time and place, and this you shall in no wise omit, under the pain that shall thereon issue. Given under our hands and seals at — aforesaid, in the county aforesaid, the — day of —, in the fifty-second year of the reign of George the third.

J. P. (L. S.)
H. P. (L. S.)

Warrant for
returning
lists of ju-
rors. (b)

Westmoreland. To Henry Holme, gentleman, knight, constable of the West Ward, within the county aforesaid.

At a general quarter sessions of the peace of our sovereign lord the king, holden at —, in and for the said county, the — day of July, in the — year of the reign of our said sovereign lord George the third, of the united kingdom of Great Britain and Ireland king, defender of the faith, before us —, esquires, and others our associates, justices of our said lord the king, assigned to keep the peace of our said lord the king, in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed: these are to require you, upon sight hereof, to issue forth your precepts to all the petty constables within your said ward, thereby directing and requiring them to make and return true lists of jurors, according to the form or to the effect here following; that is to say,

Westmoreland, west ward. To the constable of —.

By virtue of a warrant from his majesty's justices of the peace in and for the said county, at their general quarter sessions assembled, unto me directed, you are hereby required to make a true list in writing, containing the names and places of abode, together with the titles and additions, of all persons between the ages of twenty-one and seventy dwelling within your constablewick, qualified to serve upon

(b) Burn, J. Jurors. Ante 1 vol. 508, 510.

juries; that is to say, of every such person who hath in his own name, or in trust for him, within the county aforesaid, 10l. a year above reprises, of freehold or copyhold lands or tenements, or of lands and tenements of ancient demesne, or in rents, or in all or any of them, in fee simple, fee tail, or for the life of himself or some other person; or having land in possession in* his own right of 20l. a year above the reserved rent, being held by lease for 500 years or more, or for 99 years, or any other term determinable on one or more lives; in order to the making of which list, you may, if you think it needful, apply to any parish officer, who shall have in his custody any of the rates for the poor or land tax, and from thence take the names of such persons so qualified; which list so being made as aforesaid, you are required, upon two or more Sundays at least twenty days before Michaelmas next, to fix on the door of the church or chapel, and of every other public place of religious worship within your parish or other precinct; and leave, at the same time, a duplicate thereof with a churchwarden or overseer of the poor, to be perused by the parishioners gratis. And the said list you are also further required to deliver in at the next general quarter sessions of the peace, to be holden in and for the said county, in open court; or otherwise, you may, in the mean time, apply to one of his majesty's justices of the peace in and for the said county, and in his presence subscribe the said list, and attest the truth thereof upon oath; and the same (being first also signed by the said justice) you may deliver to me, to be by me delivered in at the said next general quarter sessions. Given under my hand at Barnskew in the said county, the — day of — in the — year —. [* 305]

Henry Holme, high constable.

And this you, the said high constable, are in no wise to omit, upon the peril that shall ensue thereof. Given under our hands and seals the day and year first above written.

George the third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, To the sheriff of —, greeting: we command you, that you omit not by reason of any liberty in your bailiwick, but that you cause to come before our justices, at the next general session of oyer and terminer, to be holden in and for your county, twelve good and lawful men of the neighbourhood, of the parish of Birmingham, in your said county, by whom the truth of the matter may be the better known, and who are no affinity to C. D. (the defendant,) of the parish aforesaid, labourer, to recognize upon their oaths, whether the said C. D. be guilty of a certain trespass, assault, and misdemeanour, Venire facias ad triandum before justices of oyer and terminer. (c)

(c) This is the usual printed parchment. 11 East. 509.
form of venire ad triandum on

[* 306]

whereof he stands indicted, or not; because as well Richard Lowndes, esquire, clerk of the crown, and clerk of the assizes for the said county, who prosecuteth for us in this behalf (by John Frederick Hilditch, gentleman, his deputy lawfully* constituted) as the said C. D. have put themselves upon that jury; the same day is given to the said parties there, &c. And have you then there this writ. Witness — at — the — day of — in the — year of our reign.

Distringas
juratorum
indictment
in K B for
to try an
assault. (d)

George the third, by the grace of God, &c. To the sheriff of Middlesex, greeting: we command you, that you do not forbear, by reason of any liberty in your bailiwick, but that you destrain the bodies of the several persons named in the panel annexed to this writ, being the jurors summoned in our court before us, between us and J. P. C. late of, &c. in, &c. esquire, by all their lands and chattels in your bailiwick, so that they nor any one for them do put their hands to the same until you shall have another command from us for that purpose; and that you answer to us for the issues thereof, so that you may have their bodies before us at Westminster on, &c. next after —, or before our right trusty and well-beloved William earl of Mansfield, our chief justice assigned to hold pleas before us, if he shall come before that time; that is to say, on Tuesday next (the end of the term) at Westminster, in your county, in the great hall of pleas there, according to the form of the statute in such case made and provided, to try, upon their oath, whether the said J. P. C. be guilty of certain trespasses, contempts, and assaults, whereof he stands indicted, or not; and to hear their judgment concerning more defaults, and have you there then this writ. Witness, &c.

Entry of
suggestion
that defen-
dant is an
alien, and
prayer of
venire de
medietate
linguz. (e)

And thereupon the said F. says, that he is an alien, and was born in D. in parts of Germany under the allegiance of the emperor of Germany; and he prays the writ of our lord the king to cause to come here twelve, &c. whereof one half to be of natives, the other of aliens, to wit, born in D. (f), in parts of Germany under the allegiance of the emperor of Germany, to try the issue of the said plea, according to the form of the statute in such case made and provided, and it is granted to him, &c. Therefore, according to the form of the statute aforesaid, it is commanded to the sheriff that he cause to come here, &c. twelve, &c. whereof one half to be natives, and the other half aliens, &c. as above, by whom,

(d) 4 Went. 72. Co. Ent. 373, 390. Ante 1 vol. 508.

(e) 2 Dyer, 144, b. Rast. Ent. 264, 5. Ante 1 vol. 525.

(f) The statutes mentioning

only aliens generally, the foreigner is not entitled to have a mediety of his own countrymen, but of foreigners generally. Hawk. b. 2.

&c. And because neither, &c. to recognize, &c. because as well, &c.

London. The honorable S. P. attorney-general of our said ^{Attorney} lord the king, prayeth a tales de circumstantibus to be granted ^{General's} by the* court here, according to the form of the statute in ^{warrant for a} such case made and provided, for the trial of the issues ^{tales (g)} joined between our sovereign lord the king and J. S. late of, ^[* 307] &c. W. C. late of, &c. D. McK. late of, &c. J. W. late of, &c. D. R. late of, &c. J. S. late of, &c. R. F. late of, &c. E. M. late of, &c. and A. B. late of, &c. for certain nuisances whereof they are indicted, lest the jury to be taken in this behalf should remain untaken for default of jurors.

By the controlment of last term. Roll.

S. P.

B. clerk in court for the defendants, 22d April, 1802.

Middlesex. Sir William Garrow, knight, attorney-general ^{The like in a} of our lord the king, as tales de circumstantibus to be granted ^{more recent} by the court here, according to the form of the statute in ^{form. (h)} such case made and provided for the trial of the issue joined between our said lord the king, and C. D. esquire (indicted by the name of C. F.) late of the parish of Saint Clement Danes, in the county of Middlesex, gentleman, for certain misdemeanours whereof he is indicted, lest the jury to be taken in this behalf should remain untaken for default of jurors.

By the controlment of Michaelmas term, in the 54th year of king George the third. Roll.

W. Garrow.

Belt and Son, clerks in court for the defendant.

The king } Cornwall, Friday next after the octave ^{Rule for spe-}
v. } of the purification of the Blessed Virgin ^{cial jury at}
Wm. Badcock. } Mary, in the thirtieth year of king George ^{instance of}
the third, at the instance of the prosecutor in this cause, ac- ^{prosecutor,}
cording to the form of the statute in such case made and pro- ^{on 3 Geo. II.}
vided, it is ordered, that the sheriff of the county of Corn- ^{c. 25. s. 15.}
wall do attend the coroner and attorney of this court with ⁽ⁱ⁾
the freeholder's book of the said county; and that the said coroner and attorney, in the presence of both parties, shall nominate forty-eight free and lawful men out of the said book, and the agent, attorney, or solicitor for the prosecutor shall strike out twelve, and the agent, attorney, or solicitor for the defendant shall in like manner strike out twelve out of the said forty-eight,* and that twenty-four, the remainder ^[* 308]

(g) Hand's Prac. 418.

(i) See form, 4 Wentw. 490.

(h) See last precedent and Ante 1 vol. 521, &c.
note.

of the said forty-eight, shall be returned for the trial of the issues joined in this cause.

On the motion of Mr. Litchfield.

By the court.

I appoint Monday the 8th day of
March, 1790, at 12 at noon,
James Templer.

The like in a
more recent
form.

Saturday on the octave of Saint Martin, in the fifty-fourth year of king George the third.

Middlesex.

The King
against

C. D. esq. indicted by the name of C. F. gent.

At the instance of the prosecutor, according to the form of the statute in such case made and provided, it is ordered that the sheriff of the county of Middlesex do attend the coroner and attorney of this court, with the freeholder's book of the said county, and that the said coroner and attorney, in the presence of both parties, shall nominate forty-eight free and lawful men out of the said book, and that the agent, attorney, or solicitor for the prosecutor, shall strike out twelve; and the agent, attorney, or solicitor for the defendant shall in like manner strike out twelve, out of the said forty-eight; and that twenty-four, the remainder of the said forty-eight, shall be returned for the trial of the issue joined in this prosecution.

On the motion of Mr. Puller.

By the court.

I appoint Wednesday, 29th November, 1815, at twelve o'clock, to nominate.

E. H. Lushington.

Peremptory
appointment
of coroner
and attorney
for striking
special jury.

Middlesex. In the king's bench.

The King
against

C. D. esquire, indict. nomine C. F. gent.

I appoint on Saturday the second day of December instant, at one o'clock precisely, to reduce the jury herein peremptorily.

E. H. Lushington.

Rule of court
in K. B. to
bring up the
defendant.

Wednesday next after fifteen days of Saint Hilary, in the forty-seventh year of king George the third.

Middlesex.

The King
against
Edward Rich.

[* 309] It is ordered that the keeper of his majesty's gaol of Newgate, or his deputy, do bring into this court the body of the defendant, on* Thursday next after the morrow of the purification of the blessed virgin Mary.

Side bar.

By the court.

Rule or order
to gaoler

Friday next after fifteen days of Saint Martin, in the forty-seventh year of king George the third.

Middlesex.

The King to have de-
against fendant in
Edward Rich. court to take
his trial. (k)

It is ordered that the keeper of his majesty's gaol of Newgate, or his deputy, have the defendant before the lord chief justice of this court, at the sitting of nisi prius, to be holden after this term, in and for the county of Middlesex, in order to take his trial in this prosecution.

Side bar.

By the court.

Clerk of the arraignments, keeper of Newgate, set A. B. to the bar. Calling prisoner to the bar in cases of felonies. (l)

A. B. of the parish of, &c. come forth, save you and your bail, or you forfeit your recognizance. Calling defendants out on bail to appear. (m)

A. B. and C. D. (with their additions,) bring forth the body of E. F. whom you have undertaken to appear here this day, or you forfeit your recognizance. Calling bail to bring forth principal. (n)

You good men that are impanelled to try the issue joined between our sovereign lord the king and the prisoners at the bar, answer to your names, upon pain and peril that shall fall thereon. Clerk of arraign's call of petty jury, on trial of a felony at Newgate. (o)

Oyez. You good men that are impanelled to inquire between our sovereign lord the king and the prisoners at the bar, (if by adjournment, "and were adjourned to this time and place,") answer to your names and save your fines. Clerk of arraign's call of petty jury, and the like on an adjournment. (p)

You good men that are impanelled to try the issue of this traverse between our sovereign lord the king, and A. B. answer to your names and save your fines. On trial of a traverse at assizes, call of jury to try traverse. (q)

You good men that are returned and impanelled to try the issue joined between our sovereign lord the king and the prisoner at* the bar, answer to your names; upon pain and peril that shall fall thereon. On trial of a traverse at sessions, call of petty jury by clerk of peace. (r)

[* 310]

(k) Ante 1 vol. 531. 4 Harg. 522.
St. Tr. 777.

(l) 4 St. Tr. 717.

(m) Cro. C. C. 482. Ante 1 vol. 531.

(n) Cro. C. C. 482. Ante 1 vol. 531.

(o) Cro. C. C. 7. Ante 1 vol.

(p) Cro. C. C. 482. Ante 1 vol. 552.

(q) Cro. C. C. 483. Ante 1 vol. 552.

(r) Dick. Sess. 182. Ante 1 vol. 552.

At the as-
sises of ar-
raign's ad-
dress to pri-
soner before
challenge.
(s)

A. B.

These good men that you shall now hear called, are those that are to pass between our sovereign lord the king and you, upon your several lives and deaths; if therefore you or any of you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, before they are sworn, and you shall be heard.

At the ses-
sions, ad-
dress to pri-
soner before
challenge.
(t)

These good men that were last called, and have appeared, are those which are to pass between our sovereign lord the king and you, ("upon your several lives and deaths," if it be a capital offence,) if therefore you will challenge them, or any of them, your time is to speak as they come to the book, before they are sworn, and you shall be heard.

FORMS OF CHALLENGES, DEMURRERS, AND JOINDERS.

Challenge of
array of ju-
rors, the
sheriff being
an alderman,
and interest-
ed in the
event of the
trial. (u)

And hereupon the said mayor, aldermen and assistants of the said town of S. in the said county of S. do challenge the array of the panel aforesaid, because they say that the said panel was arrayed and returned by J. P. esquire, who now is, and at the time of the arraying the said panel, and of the return thereof was sheriff of the said county of S. which J. P. then was, and now is, one of the aldermen of the said town of S. in the said county of S. and concerned in interest in the event of the trial of the said several issues above joined to be tried, and this they are ready to verify, wherefore they pray judgment of the panel aforesaid, and that the said panel so as aforesaid arrayed by the said sheriff for the trial of the said several issues in this cause may be quashed, &c.

Challenge of
array of ju-
rors, the
sheriff being
a citizen and
freeman, and
having paid
a sum of
money to-
wards de-
fraying of
the expences
of the prose-
cution. (w)

[* 311]

And now here at this day come, as well the said coroner and attorney of our said sovereign lord the king, who for our said lord the king prosecutes in this behalf, as the said George Johnson, &c. (*the names of all the defendants,*) by their attorney aforesaid, and the jury thereupon impanelled, likewise come, and thereupon they, the said George Johnson, &c. (*as before,*) challenge the array of the said panel, because they say that the said panel was* arrayed and returned by one Henry Bennett, esquire, who now is, and at the time of arraying the said panel, and of the return thereof, was sheriff of the said county palatine of Chester, which Henry Bennett then was, and now is a citizen and freeman of the said city of Chester, and county of the same city, where the supposed offence mentioned in the said information was committed, and also for that the said Henry Bennett hath contributed and paid a certain sum of money, to wit, the sum of fifty

(s) 4 St. Tr. Harg. 717, 723. Ante 1 vol. 523.
Cro. C. C. 7.

(t) Dick. Sess. 182.

(u) Cro. C, C. 8th edition, 105.

(w) Cro. C. C. 8th edition,
105. Ante 1 vol. 523.

pounds towards defraying the expences of prosecuting and carrying on this cause, and he is concerned in interest in the event of the trial of the said several issues above joined to be tried, and this the said George Johnson, &c. (*as before*,) are ready to verify as the court here shall award, whereupon they pray judgment, and that the panel aforesaid may be quashed, &c.

To this challenge the coroner and attorney pleaded that the panel ought not to be quashed, alledging that the special jury was struck by a rule of the court of king's bench; but it seems he did not bring the rule into court; for which cause, and likewise his having traversed matter not alledged in the plea, or traversable, &c. the defendants demurred specially as follows, viz. And the said George Johnson, &c. (*all the defendants*,) by protestation say, that there is no such rule as the said coroner and attorney in his said plea to the said challenge hath above alledged; nevertheless for answer in this behalf they say, that the said plea of the said coroner and attorney to the aforesaid challenge, and the matter therein contained, are not sufficient in law to prevent the quashing the said array of the said panel; and that they to the said plea, in manner and form above pleaded, are under no necessity, nor bound by the law of the land to answer; and this they are ready to verify: wherefore they pray judgment, and that the panel aforesaid may be quashed. And for causes of this demurrer in law, the said George Johnson, &c. (*as before*,) by leave of the court here to them for this purpose granted according to the form of the statute in such case made and provided, show to the court here these causes following, to wit, for that the said coroner and attorney hath neither denied, nor sufficiently confessed and avoided by his said plea several material facts in the said challenge alledged; and for that the said coroner and attorney hath traversed matter not traversable, and also other matter not alledged in the said challenge; and also for that the said coroner and attorney by his said plea hath not sufficiently induced the traverse therein mentioned; and for that the said coroner and attorney hath not produced the said supposed rule here in court, nor* verified his said plea by the record thereof; and for that the said plea to the said challenge is in various other respects defective, insufficient, and informal, &c. And the said coroner and attorney of our said lord the king, who prosecutes as aforesaid, for that he sufficient matter in law to prevent the quashing the said array of the said panel hath above alledged, which he is ready to verify, which matter the said George Johnson, &c. (*as before*) have not gainsaid, nor to the same in anywise answered, but the said verifica-

Plea to the last challenge and proceedings thereon. (x)

Demurrer to plea to challenge.

Causes of demurrer.

[* 312] Joinder in demurrer.

(x) See form and proceedings, Cro. C. C. 8 Ed. 105, 6.
Crim. Law.

tion to admit have altogether refused as before prays judgment, and that the said jury may be taken, &c. This demurrer was argued before Mr. Verney, chief justice, and Mr. Jessop, the other justice of Chester; and the counter plea was held ill in form and substance, because the court could not take notice of the rule; and this being mentioned in the court of king's bench, Trinity, 7 and 8 Geo. II. upon a motion for an attachment against the defendants for challenging the special jury, struck by rule of the court at the request of the defendants, Lord Hardwicke, chief justice, said that the judges of Chester had done right to hold the counter plea ill because the rule could not be taken notice of; to which the rest of the judges agreed. See Cro. C. C. 8th Ed. 105.

Challenge to
the array at
the assizes
for want of
hundredors,
13 E. 1. c.
30. (y)

[* 313]

And the said justices of assize before whom, &c. have sent here their record in these words, &c. Afterwards the day and place within contained, before T. Jones, knt. chief justice of the lord the king of the bench, and Job Charlton, knt. one of the justices of the said lord the king of the bench, justices of the said lord the king assigned to take assizes in the county of Hertford by the form of the statute, &c. come, as well the within named G. H. gentleman, as the within written T. Baldwin, by their attorneys within contained. And the jurors of the jury, whereof mention is within made, being called likewise come, and the said T. Baldwin challenges the array of the panel hereto annexed, because he says that the jurors aforesaid in the panel aforesaid, named at the time of the array of the panel aforesaid, were returned of the venue of Watford, otherwise Waterford, in the record within written mentioned, and that the town of Waterford aforesaid is, and at the time of the array of the panel aforesaid, was within the hundred of Cashoe, in the county aforesaid, and that the jurors aforesaid, in the panel aforesaid named, have nothing; nor at the time of the panel aforesaid, or ever after had any thing, nor had any of them at the time of the array of the panel aforesaid, or ever after hitherto any thing within the hundred of Cashoe aforesaid, neither were the jurors aforesaid in the panel aforesaid named at the time* of the array of the pannel aforesaid, or ever after hitherto comorant within the hundred of Cashoe aforesaid, and because the said George Higgins cannot deny the challenge aforesaid by the said Thomas Baldwin as aforesaid made, the said Thomas Baldwin prays that the panel aforesaid may be quashed, and because that the justices here will advise themselves of and upon the premises before they give judgment thereon, day is given to the parties aforesaid here until on the morrow of the Holy Trinity, to hear their judgment thereon, because the same justices here thereof, are not

(y) 2d Lilly's Entries, 472. but it may be applied to criminal proceedings. Co. Lit. 125, b. This challenge was in an action,

yet, &c. On which day here comes as well the said George as the said Thomas, by their attorneys aforesaid, and hereupon the premises aforesaid being seen, and by the justices here fully understood, it is considered that the panel of the jurors aforesaid be quashed, &c. And upon this the said George prays the writ of the lord the king to the sheriff of the county aforesaid, to be directed to cause to come anew, 12, &c. and it is granted him, &c. Therefore the sheriff is commanded that he cause to come here from the day of the Holy Trinity in three weeks anew, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. on which day the jury between the parties aforesaid in the plea aforesaid, was respited between them here until this day, to wit, from the day of St. Michael in three weeks then next following, unless the justices of the said lord the king assigned to take assizes in the county aforesaid, by the form of the statute, &c. should first come on Tuesday, the tenth day of July last past, at the town of Hartford, in the county aforesaid. And now here on this day comes the said George, by his attorney aforesaid, and the said justices of assize before, &c. have sent here their record in these words. Afterwards at the day and place within contained before, &c.

A venire de
novo award-
ed.

And now at this day, to wit, ———, came the aforesaid A. the plaintiff, and B. the defendant, by their attorneys, and the jurors were impanelled, and demanded and came, and thereupon the aforesaid B. challengeth the array of the panel aforesaid, because he said that the panel was arrayed by one John Zouch, knight, now and at the time of making the array aforesaid sheriff of the said county of Derby, which said sheriff is a kinsman of the aforesaid John Maners (the plaintiff,) to wit, the son of George Zouch, esquire, son of John Zouch, knight, son of John Zouch, esquire, son of William Lord Zouch, son of Alan Lord Zouch, son of William Lord Zouch, son of Elizabeth, daughter of William Lord Roos, father of William* Lord Roos, father of Thomas Lord Roos, father of Eleanor, mother of George Maners, knight, father of Thomas, Earl of Rutland, father of the aforesaid John Maners. And this he is ready to verify, whereupon he prayeth judgment, and that the said panel may be quashed. Which said challenge by ——— and by ——— triers, to this chosen and sworn, is found true. And therefore let the panel aforesaid be quashed and removed, &c.

Challenge to
the array, be-
cause the
sheriff is of
kindred to
one of the
parties. (z)

[* 314]

And upon this the said C. D. challenges the array of the said panel, because he says that the panel was arrayed by one J. S. esquire, late sheriff of the county of ——— aforesaid,

Challenge
because the
panel was re-
turned at the
instance of
the party. (a)

(z) Burn, J. tit. Jurors. Ante proceedings.

1 vol. 536. This form in an ac- (a) Burn, J. tit. Jurors. Ante 1
tion may be applied to criminal vol. 337.

at the nomination of the said ——— and in his favour; which said challenge by triers thereof sworn is found true.

Challenge to the array of a jury, with a demurrer to such challenge and joinder. (b)

And now at this day, that is to say, on Monday, the seventeenth day of August, in the fifteenth year of the reign of our sovereign lord the present king, come as well the said Samuel Lord Bishop of Chester, plaintiff, by his attorney, as the said Isaac Walker, &c. defendants, by their attorney aforesaid, and the jurors aforesaid impanelled and demanded come, and thereupon the aforesaid I. W. &c. defendants by A. B. their attorney, do challenge the array of the panel aforesaid, because they say that the said Samuel Lord Bishop of Chester, the plaintiff, is and at the time of arraying the panel aforesaid, was one of the peers of the realm of Great Britain, having a voice and place in every parliament of Great Britain, and that the array of the panel aforesaid was arrayed by R. D. esq. sheriff of the county of Lancaster, no knight being named and returned on the said panel of the array aforesaid as ought to have been done according to the law of the realm, and this they are ready to verify, wherefore they pray judgment, and that the same panel may be quashed, &c.

Demurrer to the challenge to the array. (c)

And the said Samuel Bishop of Chester, by A. B. his attorney saith that the said challenge of the said defendants to the array of the panel aforesaid, is not sufficient in law to quash the said array of the panel aforesaid, and that there is no necessity for him, nor is he obliged by the law of the land of this part of the kingdom of Great Britain called England, to answer to the said challenge in manner and form as it is above alledged, and this he is ready to verify, wherefore he prays judgment, and that the array of the said panel may be affirmed, &c.

[* 315] Joinder to the last demurrer. (d)

And the said I. W. &c. &c. say that they have above alledged sufficient* matter in law in the said challenge by them above made to the array of the panel aforesaid, to quash the array of the said panel which they are ready to verify, which said matter the said Samuel, Lord Bishop of Chester, does not deny, nor in any manner answer thereto, therefore they as before pray judgment, and that the array of the said panel may be quashed, &c.

Oath to juror before asking him

You shall true answer make to all such questions as shall be asked you by the court. So help you God. questions on the challenge of him. (e)

Oath to triers. (f)

You shall well and truly try whether A. B. [*the jury-men challenged*] stand indifferent between the parties to this issue. So help you God.

(b) 10 Wentw. 474. Ante 1 vol. 548.
vol. 541.

(c) 10 Wentw. 474. Ante 1 vol. 550.
vol. 548.

(d) 10 Wentw. 475. Ante 1 vol. 549.

(e) 4 Harg. St. Tr. 750. Ante

(f) Burn, J. Jurors, IV. Ante

. You shall well and truly try, and true deliverance make between our sovereign lord the king, and the prisoners at the bar, whom you shall have in charge, and true verdict give according to your evidence. So help you God.

Oath to petty jury on trial of prisoner at old bailey or at assize (g)

You shall well and truly try the issue of this traverse, between our sovereign lord the king and A. B. and a true verdict give, according to your evidence. So help you God.

Oath of jury on trial of a traverse at assizes. (h)

You shall well and truly try, and true deliverance make between our sovereign lord the king and the prisoners at the bar whom you shall have in charge, according to your evidence. So help you God.

Oath of jurors at session. (i)

After swearing the jury, the cryer says to them, "Twelve good men, and true, stand together and hear your evidence;" and then proclamation is made as follows:—

Cryer's telling the jury to stand together. (k)

Oyez. If any one can inform my lords the king's justices, the king's serjeant or attorney-general, before this inquest be now taken, between our sovereign lord the king and the prisoners at the bar, of any treasons, murders, felonies, or other misdemeanours, committed or done by the prisoners at the bar, let him come forth, and he shall be heard, for they now stand at the bar for their deliverance. And all others that are bound by recognizance to give evidence against the prisoners at the bar, let them come* forth and give their evidence, or else they forfeit their recognizance.

Cryer's proclamation for persons to give information against prisoner on trial of felony at assizes. (l)

[* 316]

Oyez. If any one can inform my lords the king's justices, the king's serjeant or attorney-general, on this inquest to be now taken, between our sovereign lord the king and A. B. of any misdemeanour committed or done by the said A. B. let him come forth, and he shall be heard.

Proclamation for information on trial of a traverse at assizes. (m)

If any can inform the king's attorney, or this court, of any treasons, murders, felonies, or other misdemeanours, against A. B. the prisoner at the bar, let them come forth, for the prisoner stands upon his deliverance.

of felony at sessions. (n)

Oyez. If any one can inform the king's justices, the king's attorney, the king's serjeant, on this inquest now to be taken, let them come forth and they shall be heard, for the defendant stands at the bar upon his discharge.

The like in another form (o)

The clerk of arraigns says, "Keeper of Newgate, set Robert Lowick to the bar;"—which being done, the clerk of the arraigns then says to the prisoner, "You, the prisoner at the bar, Robert Lowick, those men that thou shalt hear called, to him,

Proceedings calling prisoner to the bar, address to him,

(g) Ante 1 vol. 551. Cro. C. C. 8, 483. 2 Hale, 293. Administered by clerk of arraign on circuit.

(h) Cro. C. C. 8th Ed. 483. Ante 1 vol. 552.

(i) Ante 1 vol. 552. Dick. Sess. 192.

(k) 4 Harg. St. 723.

(l) Ante 1 vol. 489, 553. Cro. C. C. 482, 7. 2 Hale, 293, 4. 4 Harg. St. Tr. 723. Williams, J. Sessions, the forms vary.

(m) Cro. C. C. 483.

(n) Dick. Sess. 183.

(o) Dick. Sess. 154.

calling jurors, challenges, swearing jury, and proclamation.
(p)

and personally appear; are to pass between our sovereign lord the king and you, upon trial of your life and death; if, therefore, you will challenge them, or any of them, your time is to speak to them as they come to the book to be sworn, and before they be sworn."—*George Ford*.

Lowick (the prisoner.) I do not except against him.

Cl. of Arr. Hold the book to *Mr. Ford*.

Cryer. Look upon the prisoner. You shall well and truly try, and true deliverance make between our sovereign lord the king and the prisoner at the bar, whom you shall have in charge, and a true verdict give, according to your evidence. So help you God.

Cl. of Arr. *Thomas Trench.*

Lowick. I have nothing to say against him. (*He was sworn.*)

Cl. of Arr. *John Wolfe.*

Lowick. I do not except against him. (*He was sworn.*)

Cl. of Arr. *James Bodington.*

Lowick. I challenge him.

Cl. of Arr. *John Raymond.*

Lowick. I say nothing against him. (*He was sworn.*)

[* 317]

Cl. of Arr.* *George Hawes.*

Lowick. I do not except against him. (*He was sworn.*)

Cl. of Arr. *Thomas Glover.*

Lowick. I challenge him.

Cl. of Arr. *Matthew Bateman.*

Lowick. I do not except against him.

Cl. of Arr. *James Partherith.*

Lowick. I challenge him.

Cl. of Arr. *Joseph Blisset.*

Lowick. I challenge him.

Cl. of Arr. *Alexander Forth.*

Lowick. I challenge him.

[Seventeen more were then called in like manner; of whom, eleven were challenged; the rest were not excepted to, and were sworn accordingly.]

Cl. of Arr. *Cryer, countez.* *George Ford.*

Cryer. 'One, &c.

Cl. of Arr. *Elias Fletcher.*

Cryer. Twelve good men and true, stand together and hear your evidence.

L. C. J. Now the rest of the jury that have appeared are discharged.

Cl. of Arr. *Cryer, make proclamation.*

Cryer. Oyez. If any one can inform my lords the king's justices of oyer and terminer, the king's serjeant, or the king's attorney-general, before this inquest be taken, of the

(p) 4 Harg. St. Tr. 723. See 747 to 753.
another form, 4 Harg. St. Tr.

high treason whereof the prisoner at the bar stands indicted, let them come forth and they shall be heard, for now the prisoner stands at the bar upon his deliverance, and all others that are bound by recognizance to give evidence against the prisoner at the bar, let them come forth and give their evidence, or else they forfeit their recognizance.

The names of the twelve sworn are these :

| | |
|-----------------------|------------------------|
| George Ford, esq. | Thomas Rammage, gent. |
| Thomas Trench, esq. | William Wild, gent. |
| John Wolfe, esq. | William Pitts, gent. |
| John Raymond, esq. | William Smith, gent. |
| George Hawes, esq. | Benjamin Boltby, gent. |
| Matthew Bateman, esq. | Elias Fletcher, gent. |

[* 318]

"Gentlemen, A. B. stands indicted for making an assault upon B. C. the prosecutor does not appear to give evidence, therefore,* without you know of your own knowledge that the defendant is guilty, you must acquit him." [The jury then being asked whether defendant is guilty or not guilty, they say, "Not guilty."]

If the prosecutor does not appear against the defendant, according to the notice, the defendant is acquitted, the prosecutor being (by the cryer) called three several times to come and give evidence then at the sessions, the chairman says to the jury to this effect:—

"Gentlemen, C. D. stands indicted for making an assault on A. B. the prosecutor does not appear to give evidence; therefore, without you know of your own knowledge that the defendant is guilty, you must acquit him." And thereupon the jury being asked by the clerk of the peace whether the defendant is guilty or not guilty, they say, "Not guilty."

(q) Ante 1 vol. 489. Williams, J. tit. Sessions. Dick. Sess. 154. (r) Will. J. Sessions, ante 1 vol. 489. Dick. Sess. 154.

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CHAPTER*. XIV.

PROCEEDINGS ON COMMENCEMENT OF TRIAL—READING INDICTMENT—SPEECHES OF COUNSEL—SUBPŒNAS AND HABEAS CORPUS FOR WITNESSES—NOTICES TO PRODUCE DOCUMENTS—OATHS OF WITNESSES, &c.—PROCEEDINGS BETWEEN EVIDENCE AND VERDICT—VERDICTS GENERAL AND SPECIAL—PROCLAMATION AND DISCHARGE OF DEFENDANT WHEN ACQUITTED.

Clerk of arraigns calling first prisoner to bar, his holding up hand. The reading indictment and charge to the jury at assizes.
(a)

[* 320]

THE clerk of arraigns says, "A. B. hold up thy hand," (which the prisoner does, and then the clerk of arraigns says,) "you that are sworn look upon the prisoner and hearken to his cause. He stands indicted by the name of A. B. late of, &c. [The clerk of arraigns here reads the whole indictment, and then says,] Upon this indictment he hath been arraigned and thereunto (b) hath pleaded not guilty, and for his trial hath put himself upon God and the country, which country you are; so that your charge is to inquire whether he be guilty of the high treason (or "felony") whereof he stands indicted, or not guilty. If you find* him guilty you are to inquire what goods or chattels, lands or tenements he had at the time of the high treason (or "felony") committed, or at any time since to your knowledge. If you find him not guilty you are to inquire whether he fled for it; if you find he fled for it you are to enquire of his goods and chattels as if you had found him

(a) 2 Hale, 293, 4. 4 Harg. Tr. 724. In some precedents St. Tr. 724, 5. 753, 4. Cro. C. the forms run, "and upon his C. 8. Dick. Sess. 192. Ante 1 arraignment hath pleaded," &c. Ante 1 vol. 554. Cro. C. C. 8. vol. 554.

(b) 2 Hale, 294. 4 Harg. St. Dick. Sess. 192.

guilty; if you find him not guilty, and that he did not fly for it, you are to say so and no more; and hear your evidence. (c)

[*The same as above, with this difference only.*] Upon this indictment he hath been arraigned, upon this arraignment he pleaded not guilty, and for his trial hath put himself upon God and the country, which country you are; so that your charge is to inquire whether he be guilty of this felony whereof he stands indicted, or not guilty. And further to enquire of him as you had in charge to enquire of the former prisoner, and hear your evidence. The like on subsequent trial of other defendants on different indictments. (d).

Gentlemen of the jury, C. D. stands indicted (*as in the indictment,*) to this indictment he hath pleaded not guilty. Your charge is to enquire whether he be guilty (naming the offence) or not guilty. If you find him guilty you are to say so, if you find him not guilty, you are to say so, and no more, and hearken to your evidence. The like in another form. (e)

The clerk of the peace says, "Gentlemen of the jury, Look upon the prisoner, you that are sworn, and hearken to his cause. C. D. stands indicted by the name of C. D. &c. (the clerk of the peace then reads the whole indictment as he did upon the arraignment, ante 267, and then says,) Upon this indictment he hath been arraigned, upon his arraignment he hath pleaded not guilty, and for his trial hath put himself upon God and the country, which country you are, so that your charge is to enquire whether he be guilty of this felony whereof he stands indicted or not guilty; if you find him guilty you shall enquire what lands, tenements, goods and chattels he had at the time of the felony committed, or at any time since; if you find him not guilty, then you shall enquire if he did fly for it or not; if you find he did fly for it, then you shall enquire what goods and chattels he had at the time when he did fly for it or at any time since; if you find him not guilty, and that he did not fly for it, say so, and no more, and hear your evidence. The like at the sessions in case of felony. (f)

(When* the defendant is at the bar the clerk of the peace reads the indictment, and then says,) To which indictment the defendant hath pleaded not guilty, your business, gentlemen, is to enquire whether he be guilty or not guilty, and hearken to your evidence. [* 321] Address to jury on trial of a traverse at sessions. (f)

SPEECHES OF COUNSEL FOR PROSECUTION.

Mr. Montague.—May it please your lordship, and you, Speech of

(c) It is not usual to find flight, and notes to last precedent. ante 1 vol. 635. Williams, J. Sessions, 1037. (f) Ante 1 vol. 554. Dick. Sess. 192. Williams, J. Sessions,

(d) Cro. C. C. 8. 6 Harg. St. and notes to last precedent. Tr. 797. Ante 1 vol. 554. (f) Dick. Sess. 153, 4.

(e) From Mr. Nicholl's MS. *Crim. Law.*

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Q q

the junior counsel for the prosecution of an indictment for treason. (g)

Speech of leading counsel for prosecution in the same case. (h)

[* 322]

gentlemen of the jury, this is an indictment of high treason against Robert Lowick, prisoner at the bar, and the indictment doth charge him with compassing and imagining the death of the king, and endeavouring to subvert the government and inslave this kingdom of England, and bring it under French tyranny and slavery; and the indictment sets forth that Robert Lowick, the prisoner at the bar, on the tenth of February, met several false traitors, and there consulted and treated how to assassinate his majesty; and agreed that forty horsemen should get together, some to attack the guards while others were to assassinate the king in his coach; and the indictment charges him likewise with getting together horses and arms for this purpose; to this he hath pleaded not guilty. We will call our evidence, and prove the fact against him, and we do not doubt but you will do your duty.

Mr. Attorney-General.—May it please your lordship, and you, gentlemen, that are sworn, this is an indictment of high treason in conspiring and compassing the death and destruction of the king; the nature of our evidence against the prisoner at the bar is this:—

You will hear, gentlemen, by the witnesses, that about Christmas last a conspiracy and design was set on foot to assassinate the king, and accordingly to accomplish it, there were several persons sent over from France by the late king James, who were part of his guards, and particularly sir George Barclay was to be the head of them; he was a lieutenant of the guards there, and he was sent over in January last, and there were a great many troopers* sent over, who were to be under his direction, particularly Mr. Harris, who will give you an account that he was sent over by order of king James, and he was told particularly king James had a service for him to do in England, and he hoped it might be an opportunity to advance him. He was to observe, &c. [*Here the other circumstances were concisely stated.*]

Gentlemen, you shall find that as he thus engaged Mr. Bertram, so he was to provide several others, and did declare that at his own charge he had got two or three, he complained of it as a hardship put upon him; that whereas Mr. Harris had 6s. a day subsistence, and was only to take care of himself, he, Mr. Lowick, had at his own charges engaged and provided several.

You will find, gentlemen, that Mr. Rookwood, who was

(g) See this form, 4 Harg. St. Tr. 725. Ante 1 vol. 555. This form is merely given to shew the course which has been adopted. The speech of the junior is to be confined to the record, ante 1

vol. 555, and of course must depend on the nature and terms of the indictment.

(h) See form, Harg. St. Tr. 725, and 1 vol. 555, and *supra* note g.

tried yesterday, had several meetings about it with Mr. Lowick and Mr. Harris, they did think it to be a barbarous thing; but, however, they were resolved to obey orders, and the prisoner in particular said he would obey orders though he thought it a very wicked thing.

Gentlemen, you will find by the evidence how the matter was carried on, the prisoner was to be engaged in it, and did not only embark himself in person, but engaged others, and did treat with them about it. We shall call our witnesses, who will give you a full account of it, and then we shall leave it with you, who we question not will do justice.

First, call *George Harris*. (Who appeared and was sworn,) &c. &c. &c.

Mr. *Vernon*.—May it please your lordship, and you, gentlemen of the jury, I am counsel for the king against the prisoner at the bar, who stands indicted for the murder of sir John Dineley Goodere; and the indictment charges that one Matthew Mahony (who has already undergone the justice of his country) strangled the deceased, and that the prisoner at the bar was present, aiding and abetting him in the perpetration of that horrid fact, and which (if true) will be the same in consideration of the law, as if the prisoner had with his own hands strangled the deceased and actually drawn the fatal cord which put a period to his life. Gentlemen, it is with an aching heart I discharge this melancholy task against the prisoner, but criminal justice must be administered as well as civil, and the great safety of the innocent is in the punishment of the guilty: and of this the prisoner may be assured, that as he now stands at the bar for his life and death,* and unassisted by counsel in matter of fact, I shall carefully confine myself to the letter of my instructions without any aggravation of facts or circumstances, and endeavour so to discharge my duty on this melancholy occasion, as that he may have nothing to fear but from guilt, or to hope but from innocence. And, gentlemen, as I am instructed, captain Samuel Goodere, late commander of the Ruby man of war, and brother of the late unfortunate sir John Dineley Goodere, having on Sunday the eighteenth of January last, with the assistance of Mahony and other ruffians, forcibly seized upon sir John and hurried him on board the Ruby (which then lay stationed in King-road within the body of your county,) with a design of murdering sir John; the prisoner, a private mariner belonging to the Ruby, was pitched upon by the captain as a person fit to be concerned with Mahony in the execution of that base and barbarous design. And accordingly on Monday the nineteenth, about

Speech of
counsel on
an indictment
for
murder at
the assizes
for Bristol.
(i)

[* 323]

(i) See form, 6 Harg. St. Tr. form, ante 321.
9. Ante 1 vol. 555. And see

one o'clock in the morning, the prisoner was called up by Mahony to attend the captain in his cabin, which he did; and the captain, after plying the prisoner pretty plentifully with rum, proposed to him the murdering of his brother in conjunction with Mahony; and no sooner said but done, gentlemen; for this infatuated wretch, the prisoner, influenced by the strong delusion of wickedness and temptation of mistaken gain, and not content with his honest wages, nor considering that the wages of sin are death, gave at once into the monstrous proposal for the sake of plunder. In a word, gentlemen, he readily followed Mahony into the purser's cabin where sir John lay confined; and as that unhappy gentleman had from the time of first seizing him been treated as a malefactor, so they executed him as such; for Mahony seized him by the throat, and then fastening about his neck a rope which they had brought with them for the purpose, strangled him in the presence and with the assistance of the prisoner; and, indeed, without his assistance, sir John being strong and of an undaunted spirit, would probably have been able to have defended himself against the attack of Mahony. Gentlemen, no sooner had they robbed sir John of his life but they robbed him of his watch and money; they divided the spoil between them, and then, betimes in the morning, the prisoner, with his accomplice Mahony, made off from the ship and took refuge in this city, a very unfit sanctuary for ruffians and murderers, considering the good order and government of the place, and the constant care of its worthy magistrates in the due execution of the laws; but justice pursued, and will, I doubt not, overtake him. He was apprehended and made an early confession of his guilt, and

[* 324] comes now to answer* for his delinquency. Gentlemen, we shall call the ship's cooper and his wife who heard the groans and outcries of the deceased, and were spectators of what passed in the purser's cabin immediately after this tragedy, and saw the prisoner in the very act of rifling the deceased almost at the instant of his death; we shall also lay before you the prisoner's own confession on his examination before the justices; and then, gentlemen, we doubt not, but you will be of opinion that by the laws of his country he ought to die for his transgression as some atonement for his own guilt and an example of justice to others.

SUBPŒNAS, &c. FOR WITNESSES.

Modern form
of subpoena
to a witness
to attend
trial at Cler-
kenwell ses-
sions. (1)

George the third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, to A. B. C. D. E. F. and G. H. greeting: We command you

(1) Dick. Sess. 93. Burn. J. Evidence, 1 vol. 608, 9.

and every one of you, that, all other business and excuses whatsoever ceasing, you appear in your proper persons before our justices assigned to keep our peace in the county of Middlesex, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, at the session-house for the said county on Clerkenwell-green, on Tuesday the fourteenth day of February instant, at the hour of ten in the forenoon of the same day, to testify the truth, and give evidence between us and C. D. in a case of trespass and assault; and this none of you are to omit under the penalty of one hundred pounds, to be levied, &c. Witness William Mainwaring, esquire, at the session-house aforesaid, the ninth day of February, in the fifty-fifth year of our reign.

Selby.

George the third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, to A. B. C. D. E. F. and G. H. [*not putting more than four in one subpoena,*] greeting: We command you, that all and singular business and excuses being laid aside, you and every one of you be and personally appear in your own proper persons, before our justices assigned to keep the peace in and for our county of Monmouth, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, at the general quarter sessions of the peace to be holden at ———, in and for the said county, on Wednesday the ——— day of ———, at the hour of ——— in the forenoon of the same day, to testify the truth and give evidence on our behalf, against O. O. in a case of trespass and* assault. [*If for the defendant say “between us and O. O. in a case of trespass and assault.” And then proceed*] “And this you or any of you are by no means to omit, under the penalty upon each of you of one hundred pounds. Witness ———, at ——— aforesaid, the day of ———, in the ——— year of our reign. [* 325]

H. M. clerk of the peace.

George the third by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith. To A. B., E. F., G. H. and I. K. greeting: We command you and every of you, that, all business being laid aside, and all excuses whatsoever ceasing, you, and every of you, personally be and appear before our justices of oyer and terminer and gaol delivery, for our county of ———, at the sessions of oyer and terminer and gaol delivery, to be holden at ———, in and for the said county, on ——— the ——— day of ———, at the hour of ——— in the forenoon of the same day, then and there to testify the truth, and give evidence between us and C. D. touching and concerning a cer-

The like in another form at sessions in general. (m)

[* 325]

(n)

(m) Williams, J. Evidence. 93, 4.

Burn. J. Evidence. Dick. Sess. (n) Ante 1 vol. 608, 9.

tain felony, whereof the said C. D. stands indicted. And this you, or any of you, are by no means to omit, under the penalty of one hundred pounds. Witness ———, at ———, the ——— day of ——— in the ——— year of our reign.

Subpoena for defendant at the assizes on an indictment for a misdemeanour. (o)

George, &c. To A. B., C. D., E. F. and G. H. and to every of you, greeting: We command you and every of you, firmly enjoining you, that, laying aside all excuses and pretences whatsoever, you and every of you personally be and appear before our justices assigned to hold the assizes in and for our county of ———, to deliver the gaol of the same county of the prisoners therein being, on Saturday the twenty-third day of March next, at ———, there to testify the truth between us and J. M. for certain trespasses, contempts, and misdemeanours whereof he is indicted on the part of the defendant; and this you, or any one of you, are not to omit, under the penalty of one hundred pounds, to be levied on the goods and chattels, lands and tenements, of such of you as shall fail herein. Witness Lloyd lord Kenyon, the ——— day of ———, in the ——— year of our reign.

By the court,

Burrow.

Subpoena duces tecum. (p)

[*Same as the last to the words, "there to testify, &c." and then proceed as follows :*] And also that you, or one of you, do produce and show forth at the time and place aforesaid, a certain warrant granted to you, or one of you, by the sheriff of ———, upon a certain* writ of non omittas testatum fieri facias issued out and under the seal of the said court on or about, &c. between ———, plaintiff, and ———, defendant, and the paper, writing, or instructions which accompanied the said warrants, and then and there to testify, &c.

[* 326]

Subpoena in K B for defendant's witnesses.

George the third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, To L. N., O. P., Q. R. and S. T. esquires, and to every of them, greeting: We command you and every of you, that, laying aside all excuses and pretences whatsoever, you and every of you personally be and appear before our right trusty and well-beloved Edward lord Ellenborough, our chief justice assigned to hold pleas before us, on Thursday the seventh day of December next, by nine of the clock in the forenoon of the same day, at Westminster, in our county of Middlesex, in the great hall of pleas, there to testify the truth between us and C. D. esquire (indicted by the name of C. F.) for certain misdemeanours whereof he is indicted, on behalf of the defendant; and this you, or any of you, are not to omit, under the penalty of one hundred pounds, to be levied on the goods and chattels, lands and tenements, of such of you as shall fail herein. Witness Edward lord

(o) See form, 10 Went. 358. 9 East, 473. And see description of documents, &c. post 327.
(p) Ante 185, and 1 vol. 610.

Ellenborough, at Westminster, the twenty-eighth day of November, in the fifty-sixth year of our reign.

By the court,

Lushington.

Mr. A. B.

By virtue of his majesty's writ of subpœna to you directed, and herewith shown unto you, you are commanded and required, that, all other things set aside and ceasing every excuse, you be and appear in your proper person before his majesty's justices assigned to keep the peace in the county of Somerset, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, at the next general quarter sessions of the peace, to be holden at Bridgewater, in and for the county aforesaid, on Monday the eleventh day of July instant, to testify the truth, according to your knowledge, in a certain prosecution now depending, and then and there to be tried between his majesty on the prosecution of John Winter, esquire, and George Gibbs, for a nuisance on the part of the prosecution; and this you shall in no wise omit, under the penalty of one hundred pounds. Dated the first day of July, in the year of our Lord, 1814.

Subpœna
ticket at
quarter ses-
sions. (q)

Edward Boucher, solicitor for the prosecutor.

To Mr. George Green.

George* the third, &c. To the sheriff of Derbyshire, greeting: We command you, that you have the body of A. B. in our prison under your custody, as it is said, detained under safe and secure conduct, by whatsoever name the said A. B. may be called in the same, before our justices of oyer and terminer and gaol delivery, at the next session of oyer and terminer and gaol delivery, to be holden at Derby, in and for the county of D. on Saturday the 21st day of July next, by nine o'clock in the forenoon of the same day, then and there to testify the truth, and give evidence on our behalf, against C. D. in a case of felony; and immediately after the said A. B. shall then and there have given his testimony before our said justices, to return him the said A. B. to our said prison under safe and secure conduct, and have you then there this writ. Witness John Heath, esquire, at Derby, the 20th day of July, in the 50th year of the reign.

[* 327]

Habeas cor-
pus to bring
up a wit-
ness on be-
half of crown
who is in
prison, is-
sued by jus-
tice of as-
size. (r)

Lowndes.

NOTICE TO PRODUCE DOCUMENTS, &c. ON TRIAL.

The King, on the prosecution of A. B.
against
C. D. defendant.

Prosecutor's
notice to pro-
duce docu-
ments on a
trial.

You the above-named defendant, are hereby required on

(q) Dick. Sess. 94. Ante 1 vol. 608, 9. Burn, J. Evidence. Williams, J. Evidence. (r) From Mr. Nicholl's MS. ante 1 vol. 610.

the trial of this indictment, to produce and give in evidence your warrant of attorney, retainer, or other written authority, by virtue or under colour or pretence whereof you did, as attorney for and on the behalf of J. C. commence or prosecute against B. C. a certain action lately depending, by and at the suit of the said J. C. against the said B. C. in the court of common pleas, at Westminster; also the writ, declaration, and all other proceedings in the said action, and all letters relating to the subject matter in dispute, and in particular a certain letter purporting to be a letter addressed to you the said defendant, by Messrs. W. and W. dated at Newcastle, 15th of April, 1812, and addressed to you the said defendant, and relating to the said action and to the said prosecution, and all other letters and copies of letters relating to the said action, or to the said prosecution, and all other letters, papers, writings, entries, and documents whatsoever in your possession, or custody, or power, which may in any respect relate to, or be connected with this prosecution.

[* 328]
Notice in K.
B. to pro-
duce docu-
ments on tri-
al of an in-
dictment in
K. B.

Dated, &c. Your's, &c. T. C.
In* the king's bench.

The King, on the prosecution of A. B.
against
C. D.

Take notice that you are required to produce and shew to the court and jury on the trial of this indictment, all and all manner of writings being or purporting to be, &c. [*describe the papers, the production of which is particularly required, and then proceed as follows :*] And you are further required to produce, at the time and place aforesaid, all other papers or writings in your custody, power, or possession, or which you can come at or obtain, in any way touching or concerning the matters aforesaid, or any other matter, cause, or thing relating to the said indictment. Dated this 5th day of December, 1814. Your's, &c.

O. P. defendant's attorney.
To A. B. the prosecutor above-named, and Messrs.
G. and M. attorneys for the above-named prosecutor.

OATHS OF WITNESSES.

Oath of wit-
nesses at ses-
sions on trial
of a prisoner.
(s)

Common
form of oath

The evidence that you shall give between our sovereign lord the king and the prisoner at the bar shall be the truth, the whole truth, and nothing but the truth. So help you God.

The evidence you shall give to the court and jury sworn between our sovereign lord the king and the prisoner at the

(s) Dick. Sess. 192, 5. Wil- 615,6. This oath is administered
Hams, J. Evidence. Ante 1 vol. by clerk of peace.

bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.

The evidence which you and every of you shall give for our sovereign lord the king against the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.

The evidence which you and every of you shall give between our sovereign lord the king and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.

The* evidence you shall give to the court and jury sworn, touching the issue of this traverse, shall be the truth, the whole truth, and nothing but the truth. So help you God.

I, A. B. do swear by God himself, as I shall answer to him at the great day of judgment, that the evidence I shall give to the court and jury, touching the matter in question, shall be the truth, the whole truth, and nothing but the truth. So help me God.

You swear, according to the custom of your country and the religion you profess, that the evidence you shall give between our sovereign lord the king and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.

The commissioners certified that they had examined several persons, being subjects of the Great Mogul, and that they were solemnly sworn in the following manner:—"The several persons being before us, with a bramin or priest of the Gentoo religion, the oath prescribed to be taken by the witnesses was interpreted to each witness respectively, after which they did severally with their hands touch the foot of the bramin or priest of the Gentoo religion: being also before us, with another bramin or priest of the same religion, the oath prescribed to be taken by the witnesses was interpreted to him, after which, Neenderam Surmah, being himself a priest, did touch the hand of the bramin, the same being the usual and most solemn form in which oaths are most

of witness at assizes, &c.

(t)

Another form at assizes of oath to a witness for the king.

(u)

Form of oath to witness on behalf of prisoner at assizes. (x)

Oath at assizes of witness on a trial of traverse. (y)

Form of oath of witness who is a Scotch covenant. (z)

[* 329]

The like in another form.

(a)

Mode of administering oath to Gentoo witness. (b)

(t) Cro. C. C. 484. Ante 1 vol. 615, 6.

(u) From Mr. Nicholl's MS. ante 1 vol. 616.

(x) From Mr. Nicholl's MS. ante 1 vol. 615, 624.

(y) Cro. C. C. 484.

(z) See forms, 1 Leach, C. L. 412. Mildrone's case. Burn, J. Oaths, IV. Ante 1 vol. 617.

The reporter makes a quære whether this is not the right

Crim Law.

form, in preference to the next precedent, and refers to Peake's Rep. 23. He is sworn holding up his hand, and not kissing the book, id. A mahometan should be sworn on the Alcoran, 1 Leach, 54.

(a) See note to the last precedent. This form seems to be applicable to any religion.

(b) 1 Atk. 21. Ante 1 vol. 617.

usually administered to witnesses who profess the Gentoo religion, and the same manner in which oaths are usually administered to such witnesses in the courts of justice, erected by letters patent of the late king, at Calcutta."

Oath of interpreter to a deaf and dumb witness. (c)

Oath of interpreter in general (d)

[* 330]

You shall well and truly interpret to E. F. a witness here produced on behalf of the king against C. D. now a prisoner at the bar, the questions and demands made by the court to the said E. F. and his answers made to them.

You shall true interpretation make of the evidence between the court,* the jury, and the prisoner at the bar, according to the best of your skill and understanding. So help you God.

SPEECHES OF DEFENDANT.

Speech or address of defendant. (e)

The speech or address of the defendant, or his counsel, in the case of treasons and misdemeanours, must necessarily depend on the circumstances of each particular case. See the speech of Lord Ferrers before conviction, 10 Harg. St. Tr. 515, of Lord Byron, id. 542, the address of the Earl of Warwick in 5 Harg. St. Tr. 162, and several other forms in the state trials. Mr. Gibb's speech for the defendant in the trial of Hardy, 4 vol. 90, &c. and Lord Erskine's speeches throughout.

REPLY ON PART OF THE PROSECUTION.

Reply of counsel for prosecution. (f)

Mr. *Vernon*.—If I apprehend him right, sir, he speaks this in confirmation of Mrs. Jones's evidence, who swore she knew the prisoners. Gentlemen, I was in hopes the prisoner would have stood to his former confession, instead of endeavouring to retract it, and have given glory to God by a public penitence and sorrow for the heinousness of his crime, instead of putting on a shew of innocence against proof so apparent of his guilt. Defence, I apprehend, he has made none; he has called indeed some witnesses to speak to his character; and character, it must be admitted, is of weight, by way of balancing the proofs where the fact is doubtful and uncertain; but when the evidence is strong and pregnant, and guilt stares the prisoner in the face, character weighs not a single grain in the scale of justice. How far the prisoner's character and early confession of the fact, with some ingredients in his case, may be of service to him in another

(c) See form; 1 Leach, 3. Ed. 456. 4 Ed. 409.

(d) Cro. C. C. 484.

(e) See ante 1 vol. 623.

(f) See ante 1 vol. 627. See

this form, 6 Harg. St. Tr. 288. and see the reply in Hardy's trial, 4 vol. 219, and Erskine's Speeches throughout.

place, is not the present consideration ; he stands now at the bar for your justice not your pity ; and it fully appears in proof that he was an accomplice with Mahony in this barbarous murder as laid in the indictment : so that life ought to go for life by the laws of God and man ; and I doubt not in the least, but that you will conscientiously discharge the duty you owe to God and your country, by going according to your evidence, and finding the prisoner guilty.

Mr.* Recorder.

[* 331]

Gentlemen of the jury, the prisoner at the bar stands indicted for the murder of Sir John Dineley Goodere. The indictment charges that the deceased was strangled by one Matthew Mahony, and that the prisoner was present aiding and abetting him in the fact. Judge's summing up evidence, &c. to jury. (g)

To support this charge the prosecutors have called two witnesses, Edward Jones and Margaret his wife. Edward Jones says, that he lodged in the night between the eighteenth and nineteenth of January last in the Ruby man of war, in the slop room, which adjoins to the purser's cabin, where he says the deceased was confined. He tells you that about two in the morning he was waked by his wife, and heard Sir John crying out—"Here's twenty guineas, take it, take it, don't murder me ; must I die?"—he says Sir John gave several kicks with his throat, like a man expiring, and quickly afterwards was still. He tells you that then a light being brought in the cabin, he got up and looked through a crevice in the partition, and saw the prisoner at the bar engaged in rifling Sir John's pockets, Mahony standing by with a candle in his hand. He says that Sir John was dead, as he believes, when the prisoner was rifling his pockets ; and from what he observed the next morning, that he was strangled.

Margaret Jones is something fuller in her evidence as to some circumstances previous to the murder ; but in the main agrees with her husband touching the rifling of Sir John's pockets after he was dead. She was sure Mahony held the candle, and that another person, whom she takes to be the prisoner at the bar, was rifling his pockets. She says she had not a perfect view of him ; but by his bulk, and from what her husband then told her, she concluded at the time that it was the prisoner at the bar. She says further, that when Mahony and that other person went out of the cabin she heard Mahony say—"Whither shall I run?" The other answered—"Follow me, my boy." And then she says she knew it was the prisoner made that answer by his voice. She says she knows the prisoner's voice perfectly well, having been acquainted with him two years.

(g) Ante 1 vol. 631. 6 Harg. vol. 324, and Erskine's Speeches St. Tr. 832. Hardy's Trial, 4 throughout.

The prosecutors then read the prisoner's examination, which contains a full confession of the fact as laid in the indictment.

[* 332] You have heard, gentlemen, what the prisoner has said to this charge. He admits that he went into the purser's cabin, but says,* that being much in liquor he knows nothing of what passed there, and denies that he had any concern in the murder. He called some witnesses to his character; and I must observe to you, that one of his witnesses, Daniel Wellan, says that the prisoner's voice is distinguishable from the voices of all the men in the ship.

This will give some weight to Margaret Jones's evidence, that she knew him by his voice.

And, gentlemen, upon the whole, if you believe the evidence for the king, and give credit to the prisoner's confession, you must find him guilty.

[Then the jury withdrew to consider of their verdict; and after a short space returned again.]

ENTRY OF ADJOURNMENT.

Entry of adjournment where trial could not be ended in one day. (h)

Thursday next, after fifteen days of Saint Hilary, in the thirty-sixth year, &c. forasmuch as it appears to the court here from the length of time which has been already occupied by the trial of the issue joined upon this indictment, and the further time which will be necessarily occupied by the same, that justice cannot be done if this court proceed without intermission upon the said trial, it is ordered that the jury impannelled and sworn to try the said issue have leave to withdraw from the bar of this court, being well and truly kept by six bailiffs, duly sworn not to permit any person to speak to them touching any matter relative to the trial of this issue, and that the same jury shall again come to the bar of this court on the morrow, at nine o'clock in the forenoon. And it is further ordered that the prisoner be again brought to the bar of this court at that time. By the court.

RULE FOR WITHDRAWING A JUROR.

Rule by consent for discharging jury, and defendant's withdrawing plea of general issue, and pleading to jurisdiction. (i)

Upon the motion of Cha. Hamilton Gordon, esq. and — Jodrell, esq. being assigned as counsel for the defendants in this cause, and by their consent, and also at the desire and request, and by the consent of the defendants now at the bar here, and also by the consent of Mr. Attorney General on behalf of the king, it is ordered by the court here, that Richard Foy, the last of the jurors sworn and

(h) 6 T. R. 531. Ante 1 vol. 628.

(i) Fost. Cr. L. 17. 3 Ld. Raym. 21. Ante 1 vol. 630.

impanelled in this cause, be withdrawn out of the panel, and that the rest of the jurors in this cause be discharged, no* evidence whatsoever having been given to the said jury [* 333] in this cause, either on the part of the king or of the defendants. And it is farther ordered by the court here, that the said defendants have leave to withdraw their pleas of not guilty by them formerly pleaded to the indictment in this cause, and have leave to plead to the jurisdiction of this court, and that the said defendants have time till to-morrow to put in such plea, and that they deliver copies of such plea to Mr. Sharpe, solicitor for the king in this cause, by eight of the clock this evening. And thereupon the said defendants do now here at the bar withdraw their said plea of not guilty, in order to put in such plea to the jurisdiction of this court as aforesaid.

OATH TO BAILIFF ON JURY RETIRING.

You shall swear you will keep every person sworn of this jury together in some private and convenient place without meat, drink, lodging, or fire, (candle excepted;) you shall not suffer any person to speak to them, or any of them, neither shall you speak to them yourself, unless it be to ask them whether they are agreed upon their verdict, without leave of the court: so help you God.

You shall swear that you shall keep this jury without meat, drink, fire, or candle; you shall suffer none to speak to them, neither shall you speak to them yourself, only to ask them whether they are agreed. So help you God.

PROCEEDINGS ON TAKING VERDICT OF JURY.

When the jury are agreed on the verdict, and have returned into court, the clerk says to them, "Gentlemen, answer to your names;—A. B;" who answers, "Here;"—"C. D;" who answers, "Here;" (and so with the rest of the jury.) The clerk then says, "Are you all agreed of your verdict?" Then the jury say, "Yes." The clerk says, "Who shall say for you?" Then the jury, "Foreman." The clerk says to the prisoner, "Hold up your hand;" which being done, the clerk says to the jury, "Look* upon the prisoner, you that are sworn; what say you, is A. B. guilty of the

(k) Cro. C. C. 485. Ante 1 337. Id. 238. Williams, J. Sessions. 1 vol. 635. Cro. C. C.

(l) Dick. Sess. 223. Ante 1 8 Ed. 8. The form seems nearly the same at the sessions and

(m) Dick. Sess. 228. 6 Harg. assizes. St. Tr. 823. 5 Harg. St. Tr.

felony and murder wherof he stands indicted, or not guilty?" Then the foreman says, "Guilty." Upon which the clerk asks them, "What lands or tenements, goods or chattels, had he the said prisoner at the time of the felony committed, or at any time since, to your knowledge?" The jury's common answer is, "None, to our knowledge." When the jury say, "Not guilty," then the clerk asks, "Did the prisoner fly for it or not?" If they find a flight, it is recorded, but their common answer is, "Not to our knowledge." And so the clerk proceeds to every prisoner particularly which the jury have in charge, writing after the words "Po. Se." over the several names of the prisoners, "guilty," or "not guilty," as the verdict is, and then says to the jury, "Hearken to your verdict as the court recordeth it. You say that C. D. is guilty of the felony and murder whereof he stands indicted, and that he had no lands or tenements, goods or chattels, at the time the said felony and murder was committed, or at any time since, to your knowledge; and you say that G. H. is not guilty; so you say all." The clerk then makes a proclamation thrice, beginning with "oyez," and says, "all manner of persons are commanded to keep silence whilst judgment is given against the prisoner at the bar, upon pain of imprisonment." The prisoner is then set to the bar, and sentence is given.

Another form of asking jury as to their verdict, and their answer of guilty or not guilty.

(n)

The like on the arraignment of several. (o)

You, is he guilty of the felony whereof he stands indicted or not guilty? If they say "guilty," say what goods or chattels, lands or tenements, do you find he had at the time of the felony committed, or at any time since? Jury say, "none." If they say "not guilty," ask whether he fled for it.

Then repeat your whole verdict, viz. "Gentlemen of the jury, hearken to your verdict as the court hath recorded it. You say A. D. is guilty of the felony whereof he stands indicted; that C. D. is not guilty; and so for the rest; and those that you have found guilty you say that he had no goods or chattels, lands or tenements at the time of the felony committed, nor at any time since; and for those you have found not guilty, you say he did not fly for it, and so you say all."

[* 335]

Special verdict in an indictment in K. B. for false imprisonment. (p)

Pleas* before our lord the king at Westminster, of Easter term, in the twenty-ninth year of the reign of our sovereign

(n) From Mr. Nicholl's MS. Cro. C. C. 8th Ed. 8. See note to last precedent.

(o) From Mr. Nicholl's MS. Cro. C. C. 8th Ed. 8. See note to last precedent.

(p) See form, 26 vol. Mr. J.

Ashurst's MS. This was the special verdict in the case of the King v. Stobbs. 3 T. R. 735. See also 8 Harg. St. Tr. 285, 552. 9 Id. 140, 141, 537. 10 Id. 477. See also the several forms referred to ante 1 vol. 643, n. s.

lord George the third, by the grace of God now king of Great Britain, France, and Ireland, &c.

Middlesex, (to wit.) Be it remembered that, on Thursday next after the octave of the Purification of the blessed virgin Mary, in the 29th year of the reign of our sovereign lord George the third, by the Grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. in the court of our said lord the king, before the king himself at Westminster, in the county of Middlesex, upon the oath of twelve jurors, good and lawful men of the said county, then and there sworn and charged to inquire for our said lord the king, and the body of the same county, it was presented as followeth, (that is to say,) Middlesex. The jurors, &c. Indictment stated.
[here the indictment was set forth verbatim.] Wherefore the Award of process against defendant. sheriff of the said county of Middlesex was commanded that he should not forbear, by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our said lord the king, touching and concerning the premises aforesaid, and now (that is to say) on Wednesday next after fifteen days from the feast day of Easter, in this same term, before our said lord the king at Westminster, cometh the Defendant's appearance and plea of not guilty and issue. said T. S. by his clerk in court, and having heard the said indictment read, he saith that he is not guilty thereof, and thereupon he putteth himself upon the country; and James Templer, esq. coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecuteth, doth the like. Therefore let a jury thereupon come before our said lord the king, at Westminster, on Monday next after the morrow of the ascension of our Lord, by whom the truth of the matter may be better known, and who are not of the kindred of the said T. S. to try upon their oath, whether the said T. S. be guilty of the premises aforesaid or not, because as well the said James Templer, esquire, who for our said lord the king in this behalf prosecuteth, as the said T. S. have thereupon put themselves upon the said jury, the same day is given as well to the said James Templer, esq. who for our said lord the king in this behalf prosecuteth, as to the said T. S. On which day, (to wit,) on* Monday next [* 336] after the morrow of Ascension of our Lord aforesaid, before our said lord the king at Westminster, come as well said James Templer, esquire, who for our said lord the king in this behalf prosecuteth, as the said T. S. by his clerk in court Default of jurors. aforesaid, and the sheriff of the said county of Middlesex hath returned the names of twelve jurors, none of whom come to try in form aforesaid; therefore the sheriff of the Award of distringas juratorum. said county of Middlesex is commanded that he doth not forbear, by reason of any liberty in his bailiwick, but that he juratorum. distrain the bodies of the jurors aforesaid by all their lands and chattels in his bailiwick, so that neither they, nor any

one for them, do put their hands to the same until he shall have another command from our said lord the king for that purpose, and that he answer to our said lord the king for the issue thereof, so that he shall have their bodies before our said lord the king at Westminster, on Friday next after the morrow of the holy Trinity, or before the right trusty and well-beloved of our sovereign lord the king, Lloyd lord Kenyon, chief justice of our said lord the king, assigned to hold pleas before the king himself, if he shall come before that time, (that is to say,) on Tuesday next after the end of the term, at Westminster, in the county of Middlesex, in the great hall of pleas there, according to the form of the statute in such case made and provided, to try, upon their oath, whether the aforesaid T. S. be guilty of the premises aforesaid or not, in default of the jurors aforesaid, who came not to try in form aforesaid. Therefore let the sheriff of the county of Middlesex aforesaid have the bodies of the jurors aforesaid accordingly, to try in form aforesaid; the same day is given as well to the said James Templer, esquire, who for our lord the king in this behalf prosecuteth, as to the said T. S. At which time, (to wit,) on Friday next after the morrow of the Holy Trinity before our said lord the king, at Westminster aforesaid, come as well the said James Templer, esquire, who prosecutes as aforesaid, as the said Thomas Stobbs by his clerk in court aforesaid, and the said chief justice before whom the said jurors come to try in form aforesaid, hath sent here his record had before him in these words: afterwards (that is to say) on the day and at the place within mentioned, before the within named Lloyd lord Kenyon, chief justice of our said lord the king within named, William Jones, gentleman, being associated to the said chief justice according to the form of the statute in such case made and provided, come as well the said James Templer, esquire, who prosecutes for our said lord the king as aforesaid, as the within named Thomas Stobbs by his clerk in court within named, and the jurors within mentioned, being called and drawn out of the panel* according to the form of the statute in such case made and provided, being sworn to declare the truth of the issue within contained upon their oath, say, that by a certain act of parliament made and passed at the parliament holden at Westminster in the 28th year of the reign of Henry the 8th, late king of England, to the jurors aforesaid, produced and read in evidence, intituled, "An Act to declare the Limits of the King's Palace at Westminster," it was (amongst other things) enacted, that for as much as, &c. [*here part of the act was stated,*] as by the said act, reference being thereunto had will more fully appear. And the jurors aforesaid, upon their oath aforesaid, further say, that certain letters patent of our sovereign lord the king Charles the 2nd, sealed

Award of habeas corpus juratorum.

Appearance.

Postea and special verdict.

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A private act found by jury.

A charter found by jury.

under the great seal of England, and bearing date at Westminster, on the 4th day of October, in the 16th year of his reign, were to the jurors aforesaid produced and read in evidence, which said letters patent, so read as aforesaid, were expressed in letters and figures following (that is to say), Charles, &c. [*here the charter was stated.*] And the jurors aforesaid, upon their oath aforesaid, further say, that the aforesaid T. S. at the time of issuing and executing the writ hereafter mentioned, was and still is one of the officers or ministers of the aforesaid court of the lord the king, of the palace of the king at Westminster, by the said recited letters patent, so constituted as aforesaid, for executing mandates, writs, and processes issuing out of the aforesaid court of the lord the king, of the palace of the king at Westminster, to wit, one of the bearers of the verges of the household of the lord the king. And the jurors aforesaid, upon their oath aforesaid, further say, that after the making of the said act of parliament, and after the granting of the said letters patent as aforesaid, on the fifth day of January, in the year of our Lord 1789, one Salmon Ameson sued and prosecuted out of the aforesaid court of our said lord the king, of the palace of the king at Westminster aforesaid, a certain writ to the jurors aforesaid, now here shewn and read in evidence against the said Edward Pyott, directed to the bearers of the verges of the household of our said lord the king, the officers and ministers of his majesty's court of his palace at Westminster, which was delivered to the said T. S. then and there being one of the officers of the said palace court, requiring him to take the said E. P. if he should be found within the jurisdiction of the said court, and him safely keep, so that he might have his body before the judges of the said court, at the then next court, of the palace of the king at Westminster, on Friday the 9th day of January in the same year, to be held at Southwark, in the county of Surrey, to answer to the said S. A. of a plea of trespass on the case to the damage of the said S. A. of ———, and that* he should then have there this writ; and the jurors aforesaid, upon their oath aforesaid, further say, that the said writ, afterwards and before the return thereof, was delivered to the said Thomas Stobbs, then and still being one of the bearers of the verges, and an officer of the said court as aforesaid, to be executed in due form of law. And the jurors aforesaid, upon their oath aforesaid, further say, that by virtue of the said writ of the said Thomas Stobbs afterwards, on the fifth day of January, in the year of our Lord 1789, took and arrested the said Edward Pyott, within that part of the palace of Westminster, mentioned in the said before recited act of parliament. And the jurors aforesaid, on their oath aforesaid, further say, that the said Edward Pyott, at the time of the said arrest being so made as aforesaid, was actually resident and abiding

Further
statement of
facts.

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within that part of the said palace of Westminster, in the said recited act so mentioned as aforesaid, but was not of his majesty's household. And the jurors aforesaid, upon their oath aforesaid, do further say, that before and at the time of executing the said writ, so prosecuted at the suit of the said Salmon Ameson as aforesaid, our sovereign lord the now king did actually reside within the aforesaid palace of Westminster. And the jurors aforesaid, upon their oath aforesaid, further say, that since the passing of the said act of parliament, and for the space of 100 years last past and upwards, in divers and many instances upon civil writs of processes being issued to arrest persons resident within the boundaries described by the said act of parliament, leave and permission has been first obtained from our sovereign lord the king, signified through the medium of the great officers of his household, and the writs have in such instances where leave hath been so obtained as aforesaid, been tacked by the clerk of the board of green cloth. And the jurors aforesaid, upon their oath aforesaid, further say, that since the passing of the said act of parliament, and for the said space of 100 years last past and upwards, divers and many writs upon civil processes have been executed, and persons resident at the time within the boundaries described by the said act of parliament have been arrested thereon and within the said boundaries without the leave or permission of our said sovereign lord the king signified as aforesaid. And the jurors aforesaid, upon their oath aforesaid, further say, that it does not appear to them that such last mentioned writs or processes were executed within the boundaries aforesaid, with the knowledge of the said great officers of his majesty's household. And the jurors aforesaid, upon their oath aforesaid, further say, that the said T. S. took and arrested the said E. P. as aforesaid, under and by virtue of the said writ and process before mentioned, without any leave or permission obtained from our sovereign lord the* now king, signified by or through any of the said great offices of the household of our said lord the king, presiding in the counting-house of our sovereign lord the now king, or any other of the great officers of the household of our sovereign lord the now king, or by any other means whatsoever.

Usual formal conclusion. But whether upon the whole matter aforesaid, by the jurors aforesaid, in form aforesaid, found the said T. S. was guilty of the premises within laid to his charge the jurors aforesaid are wholly ingorant, and thereof they pray the advice of the court of our said lord the king, before the king himself upon the premises; and if upon the whole matter aforesaid, by the said jurors in form aforesaid found, it shall appear to the court of our said lord the king before the king himself now here, that the said defendant T. S. is guilty of the premises within laid to his charge; then the jurors aforesaid, upon

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their oath aforesaid, further say, that he the said T. S. is guilty of the premises within laid to his charge ; and if upon the whole matter aforesaid, by the said jurors in form aforesaid found, it shall appear to the said court of our said lord the king, before the king himself now here, that the said defendant T. S. is not guilty of the premises within laid to his charge ; then the jurors aforesaid, upon their oath aforesaid, do further say, that he the said T. S. is not guilty thereof.

With respect to special cases, see ante 1st volume 647 ; and Special case. the outline of the forms in Leach's Crown Law, 4th edition, 498. 780. 837 ; and 13 East. 96.

**RECORD OF QUASHING INDICTMENT AND RECOGNIZANCE
TO APPEAR TO ANOTHER.**

Nottinghamshire. Be it remembered, that at the general session of oyer and terminer and general gaol delivery of our lord the king, holden at Nottingham, in and for the county of Nottingham, on Thursday, the ninth day of March, in the twentieth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before Sir James Eyre, knt. one of the barons of our lord the king of his court of exchequer, Geo. Hill, one of the serjeants at law of our said lord the king, and others their fellows, justices of our said lord the king assigned to hear and determine all treasons, murders, felonies, misdemeanours, and other offences committed within the same county, and also to deliver the gaol of the said county of Nottingham of the prisoners therein being, by the oaths of, &c. It is presented that Joshua Dickinson, late of, &c.* (*the indictment set forth.*) Whereupon the sheriff of the said county of Nottingham is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he take the said I. D. if he may be found in his bailiwick, and him safely keep, so that he may have his body before the justices of our said lord the king of oyer and terminer and general gaol delivery at the next general session of oyer and terminer and general gaol delivery to be holden for the said county of Nottingham, to answer the premises. At which said next general session of oyer and terminer and general gaol delivery, to wit, at the general session of oyer and terminer and general gaol delivery of our lord the king holden at Nottingham, in and for the county of Nottingham, on Thursday, the third day of August, in the twentieth year of the reign of our said lord the king, before Sir Henry Gould, knt. one of the justices of our said lord the king of his court of common pleas, Sir W. H. Ashurst, knt. one of the justices of our said lord the king, assigned to hold pleas

Record of indictment at assizes, where jury discharged from giving a verdict, and indictment quashed, and defendant discharged on giving recognizance to appear at next assizes. (g)

[* 340] Award of *ca-pias*.

Appearance of defendant in custody of the sheriff.

(g) From Mr. Nicholl's MS.

Arraign-
ment, and
plea of not
guilty and is-
sue thereon.

Award of ve-
nire instan-
ter.

Appearance
of jurors.

Nolle prose-
qui thereon,
on account of
defect of in-
dictment.

[* 341]

Judgment
that jurors
be discharg-
ed from giv-
ing verdict,

and that in-
dictment be
quashed, and
defendant
discharged
on condition
of entering
into recogni-
zance to ap-
pear at next
assizes to an-
swer any in-
dictment
that may be
preferred.

before the king himself, Geo. Hill, one of the serjeants at law of our said lord the king, and others their fellows, justices of our said lord the king, assigned to hear and determine of all treasons, murders, felonies, misdemeanours, and other offences committed within the same county, and also to deliver the gaol of the said county of Nottingham of the prisoners therein being, cometh the said I. D. under the custody of Charles Vere Dashwood, esq. sheriff of the county aforesaid, to whose custody in the gaol of our said lord the king, of the county of Nottingham aforesaid, for the cause aforesaid, he had been before committed, being brought to the bar here in his own proper person committed to the said sheriff, and being charged with the premises in and by the indictment aforesaid above alledged against him, and asked how he would acquit himself thereof, saith that he is not guilty of the same, and therefore for good and ill putteth himself upon the country; and I. Blencowe, esq. clerk of the crown of the assizes for the said county of Nottingham, who prosecuteth for our said lord the king in this behalf, by T. W. gent. his deputy for this purpose, lawfully constituted likewise, &c. Therefore let a jury immediately come before the justices of our said lord the king, last above named, and others their fellows aforesaid, here by whom, &c. and the jurors of the said jury by the said sheriff for this purpose impanelled and returned, to wit, A. B. C. D. &c. being called, came, who being chosen, tried, and sworn to speak the truth of and upon the premises aforesaid in the indictment aforesaid above specified, but the said J. B. esq. who prosecuteth for our said lord the king in this behalf as aforesaid, by the said I. W. his deputy lawfully* constituted as aforesaid, gives the court here to understand and be informed, that he will not further prosecute or give evidence for our said lord the king, upon the said indictment against the said J. D. by reason of a defect of the said indictment and the matters therein contained. It is therefore considered, adjudged and ordered by the court, the justices of our said lord the king last above named, that the said jurors so last sworn and charged as aforesaid be discharged from giving any verdict between our said lord the king and the said J. D. the prisoner at the bar on the said indictment. And it is also further considered, adjudged and ordered by the said court and justices last above named, that the said indictment, and the matters therein contained against the said J. D. be quashed for insufficiency, and that he, the said J. D. of the premises of the indictment aforesaid above charged and alledged against him be discharged, upon condition of his, the said J. D.'s entering into a recognizance with sureties for his personal appearance at the next assizes and general session of oyer and terminer and general gaol delivery to be holden in and for the county of Nottingham, then and there to answer unto such bill or bills of

indictment as shall and may be then preferred and found against him by and on the part and behalf of our said lord the king, and the said J. D. having in open court entered into such recognizance with such sureties as aforesaid, he the said J. D. is therefore by the court and justices last above named, and discharged from and out of the custody of the said sheriff of the said county of Nottingham accordingly.

Blencowe.

Nottinghamshire. Be it remembered, that at the general session of oyer and terminer and general gaol delivery of our lord the king, holden for the county of Nottingham, at Nottingham in the same county, on Thursday the 3d day of August in the twentieth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before sir H. G. knight, one of the justices of our lord the king of his court of common pleas, sir W. H. Ashurst, knight, one of the justices of our said lord the king assigned to hold pleas before the king himself, and others their fellows, justices of our said lord the king, assigned to hear and determine of all treasons, murders, felonies, misdemeanours, and other offences committed in the same county, and also to deliver the gaol of the said county of Nottingham of the prisoners therein being, came J. D. of the parish of Everton, in the county* of Nottingham, farmer, J. D. of, &c. and J. T. of, &c. and severally acknowledged themselves to owe to our said lord the king, that is to say, the said J. D. the sum of 200*l*. and the said Jo. D. and J. T. the sum of 100*l*. respectively, of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements respectively, by way of recognizance, to the use of our said lord the king, his heirs, and successors, if the said J. D. shall make default in the condition hereunder written:—The condition of this recognizance is such that if the above bounden J. D. doth personally appear at the next assizes and general session of oyer and terminer and general gaol delivery to be holden in and for the county of Nottingham, then and there to answer to such bill or bills of indictment as shall and may be then preferred and found against him by and on the part and behalf of our said lord the king, and not depart the court without leave, then this recognizance to be void, otherwise to remain in full force and virtue.

By the court,

Taken and acknowledged } F. W.
in open court the day and } Deputy clerk of the assizes.
year above written.

Oyez. If any one can inform my lords the king's justices, Proclamation to dis-

(r) From Mr. Nicholl's MS.

charge prisoners. (s)

the king's serjeant, or attorney-general, of any treasons, murders, felonies, or other misdemeanours committed or done by the prisoners (or "prisoner," as it may be,) at the bar, let him come forth and he shall be heard; otherwise this court doth discharge them (or "him," as it may be).

Proclamation to discharge recognizance. (t)

Oyez. If any one can say aught why A. B. should stand any longer bound, let them come forth and they shall be heard; otherwise the court does discharge him, paying his fees.

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CHAPTER* XV.

PROCESS TO APPREHEND DEFENDANT TO RECEIVE JUDGMENT—
RULES FOR JUDGMEET—NEW TRIAL—IN ARREST OF JUDGMENT—BENEFIT OF CLERGY—COUNTERPLEAS AND PROCEEDINGS THEREON—AFFIDAVITS AND CERTIFICATES AS TO THE HIGHWAYS BEING IN REPAIR, &c.—LEVARI FACIAS—NOTICES OF MOTION FOR JUDGMENT—AFFIDAVITS IN MITIGATION, &c.

Judge's warrant for the apprehension of defendant, after conviction on an indictment at assizes. (a)

England, } WHEREAS it is certified unto me by the deputy clerk of assizes of the home circuit, that at the assizes held at C. in and for the county of S. on Monday the third day of August, in the forty-first year of his present majesty's reign, before the right honourable L. lord K. lord chief justice of our said lord the king, and the honourable, sir N. G. knight, one of the justices of our said lord the king, justices assigned to hold pleas before the king himself, R. C.

(s) Cro. C. C. 483. Ante 1 vol. 649, cluding words as to fees should be omitted.

(t) Cro. C. C. 482. Ante 1 vol. 649. It should seem that since 55 Geo. III. c. 50, the con- (a) Ante 1 vol. 664. See a form, Hand's Prac. 419.

late of the parish of K. upon T. in the county of S. gentleman, was in due form of law tried and convicted upon a certain indictment then and there depending against him and several others for certain assaults, riots, and misdemeanours committed on the fourth day of April last at the said parish of K. upon T. in the county aforesaid.

These are, therefore, to will and require, and in his majesty's name* strictly to charge and command you and every of you, on sight hereof, to apprehend and take the body of the said R. C. and bring him before me, or one other of the judges of his majesty's court of king's bench, if taken in or near the cities of London or Westminster, if elsewhere, before some justice of peace near to the place where he shall be herewith taken, to the end that he may become bound with sufficient sureties for his personal appearance in his majesty's court of king's bench, at W. on the fifth day of the next Michaelmas term, in order to receive the judgment of the said court for the said offence, and to be further dealt with according to law, hereof fail not at your perils: Given under my hand and seal this ninth day of September, 1801. [* 344]

S. L. B. (L. S.) (b).

To J. B. my tipstaff, or any other tipstaff of his majesty's court of king's bench, and to all chief and petty constables, headboroughs, tythingmen, and all other whom these may concern.

Friday next after the morrow of All Souls, in the forty-first year of king George the third. Rule to show cause why verdict should not be set aside and a new trial granted. (c)

The King against John Rusby (for regrating.) } It is ordered that Thursday next be given to the prosecutor to show cause why the verdict obtained for the said prosecutor at the sitting of nisi prius, holden after the last term in and for the city of London, should not be set aside and a new trial had upon notice of this rule, to be given to attorney for the said prosecutor in the mean time.

On the motion of Mr. Law.

By the court.

At which day came as well, &c. as A. B. by his attorney, &c. and prays judgment, &c. and because it appeareth for our lord the king that the verdict was unduly given therefore, &c. Entry of grant of new trial. (d)

Middlesex, to wit, &c. Cause to come twelve, &c. from the neighbourhood of the city of Westminster, in the county aforesaid, by whom, &c. and who have not any affinity to John Ancient form of entry that verdict be quashed, and award of venire facias.

(b) The judgment, signature, and seal, are usually in the left margin of the warrant, about the centre.

(c) Ante 1 vol. 658, 9. 663.

(d) Ante 1 vol. 660. 6 Term Rep. page 626, 640.

(e) R. v. Arundell. Trem. 271, 2, 3. 6 Coke, 14, a.

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Verdict that
defendant is
guilty of
murder.

Cur. adv.
vult.

Verdict
quashed, be-
cause the
venire was
of the city of
Westmin-
ster, whereas
it ought to
have been of
the parish of
St. Marga-
ret's, West-
minster.
Prayer by the
attorney
general of
venire facias
de novo of
the parish of
St. Marga-
ret's. (a)
† Award of
same.

Rule to show
cause why
judgment
should not be
arrested. (b)

Arundell, late of Quarnack, in the county of Cornwall, esq. otherwise called, &c. to recognize, &c. if the aforesaid John Arundell* be guilty of certain felonies and murders, of which he is indicted, and because, &c. the same day is given to the aforesaid John Arundell, to the custody of the said marshal in the mean time committed; at which day the writ was returned, with the panel, of whom none, &c. Therefore distrain the jurors on ———. At which day came the aforesaid J. Arundell, in the custody of the aforesaid marshal. And the jurors being summoned came, who, to speak the truth of the premises, being elected, tried and sworn, say upon their oath that the said J. A. is guilty of the felony and murder aforesaid, and he had no goods or chattels, who is sent back to the aforesaid marshal. And upon this curia advisare vult, until eight days of Saint Michael, &c. At which day the plaint aforesaid, by the writ of our lord the king of common adjournment, was adjourned from the day of Saint Michael until in one month before our lady the queen, wheresoever, &c. At which day, because the writ of venire facias was adjudged from the city of Westminster, whereas it ought to be adjudged from the parish of St. Margaret, Westminster, in the county aforesaid, for the trial of the issue in this behalf joined; therefore judgment is given that the verdict aforesaid, in form aforesaid given, should be quashed, and that the said J. should go thereof without day. Upon which Edward Coke, esquire, attorney-general of the lady the queen, for the said lady the queen, prays another writ of venire facias de novo, for trial of the issue aforesaid, from the neighbourhood of the parish of Saint Margaret's, Westminster, aforesaid, in the county aforesaid; and it is granted to him, &c. †Therefore cause to come anew, on Tuesday next after the morrow of the Purification, &c. At which day the writ, with the panel, &c. Therefore distrain, &c. on Monday next after eight days of the Purification. At which day of the jurors aforesaid some came and some did not come, as appears by the panel.

Thursday next after fifteen days of Saint Martin, in the 31st year of king George the third.

London.

The King
against
John Rusby.

Upon hearing counsel on both sides, it is ordered that the fifth day of the next term be peremptorily further given to the prosecutor, to shew cause why judgment in this prosecution should not be arrested.

Mr. Knapp, for the prosecution.

Mr. Law, for the defendant.

By the court.

(a) 6 Co. 14, a.

St. Tr. 289.

(b) Ante 1 vol. 661. 11 Harg.

And* T. S. who prosecutes for our said lord the king in [* 346] this behalf, having heard Thomas Pickering, who stands con- Counterplea
victed at the delivery of the king's gaol of Newgate, now on London
here holden for the city of London, of unlawfully and feloniously, and against the form of the statute in such case made side, at Old
and provided, counterfeiting one piece of copper money of Bailey, on a
this realm, called a farthing, pray that the benefit of the sta- former con-
tute in such case made and provided may be allowed to him, viction in the
saith that the said Thomas Pickering is not entitled to the same court.
benefit of the statute in such case made and provided, be- (c)
cause he saith that the said Thomas Pickering, by the name
and description of Thomas Pickering, late of the parish of
Saint Nicholas Cole-abbey, in the ward of Queenhithe, in
the city of London, labourer, heretofore and before the said
felony was committed in manner and form aforesaid, to wit,
at the general session of the delivery of the gaol of our lord
the king of Newgate, holden for the city of London, at jus-
tice-hall, in the Old Bailey, within the parish of Saint Sepul-
chre, in the ward of Farringdon Without, in London afore-
said, on Wednesday the thirteenth day of April, in the four-
teenth year, &c. before Frederick Bull, esquire, mayor of the
city of London, George Perrott, esquire, one of the barons
of the court of Exchequer of our said lord the king, sir Wil-
liam Blackstone, knight, one of the justices of our said lord
the king of his court of common pleas at Westminster, John
Glyn, serjeant at law, recorder of the said city, John Kirk-
man, esquire, William Plomer, esquire, Nathaniel Thomas,
esquire, Benjamin Hopkins, esquire, aldermen of the said
city, Thomas Nugent, esquire, and others their fellows, jus-
tices of our said the king, assigned to deliver the said gaol
of our said lord the king of Newgate of the prisoners therein
being, was tried upon an indictment, for that he the said
Thomas Pickering, after the twenty-fourth day of June, in the
year of our Lord one thousand seven hundred and seventy-
one, to wit, on the thirtieth day of March, in the fourteenth
year, &c. with force and arms, at London, aforesaid, to wit,
at the said parish of Saint Nicholas Cole-abbey, in the ward
of Queenhithe aforesaid, in London aforesaid, one piece of
copper money of this realm, called an halfpenny, then and
there unlawfully and feloniously did make, coin, and counter-
feit, against the form of the statute in such case made and pro-
vided, and against the peace of our said lord the king, his
crown and dignity. And further, that he the said Thomas
Pickering, after the said twenty-fourth day of June, in the said
year* of our Lord one thousand seven hundred and seventy- [* 347]
one, to wit, on the thirtieth day of March, in the fourteenth
year, &c. with force and arms, at London aforesaid, that is to

(c) Cro. C. C. 8th Ed. 387. be signed by counsel. Cro. C. C.
Ante 1 vol. 687. This plea must 8th Ed. 388 in notes.

say, at the said parish of Saint Nicholas Cole-abbey, in the ward of Queenhithe aforesaid, at London, aforesaid, one piece of false, feigned, and counterfeit copper money, to the likeness and similitude of the said good, legal, and current copper money of this realm, called an halfpenny, then and there unlawfully and feloniously did make and coin against the form, &c. and against the peace, &c. And the said Thomas Pickering was thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to him the said Thomas Pickering, and the same was allowed to him accordingly; and it was considered and adjudged by the said last-mentioned court, that the said Thomas Pickering be branded in the hand and imprisoned in the said gaol of our said lord the king of Newgate, for the space of one year, which he the said T. S. is ready to verify and prove by the record thereof. And the said T. S. further saith, that the said Thomas Pickering, who stands convicted at the said delivery of the king's gaol of Newgate, now here holden for the city of London, is the same person who was so convicted at the said delivery of the king's gaol of Newgate, holden for the said city of London, at Justice hall, in the Old Bailey, on Wednesday, the thirteenth day of April, in the fourteenth year of the reign of our said lord the king, and not another or different person, wherefore, since the said Thomas Pickering hath already received the benefit of the statute, and been admitted to his clergy, the said T. S. for our said lord the king, prays the judgment of the court here, that the said Thomas Pickering may receive judgment to die according to law.

Counterplea
on the Mid-
dlesex side,
at the Old
Bailey, to
bar a felon
of the bene-
fit of clergy,
he having
been before
convicted at
the assizes.
(d)

[* 348]

And Edward Reynolds, who prosecutes for our said lord the king in this behalf, having heard William Rothwell, who stands convicted at the delivery of the king's gaol of Newgate, now here holden for the county of Middlesex, of unlawfully and feloniously, and against the form of the statute in such case made and provided, counterfeited one piece of copper money of this realm called an halfpenny, pray that the benefit of the statute in such case made and provided may be allowed to him, saith that the said W. R. is not entitled to the benefit of the statute in such case made and provided, because he saith that the said W. R. by the name and description of W. R. late of the parish of Saint George,* Southwark, in the county of Surrey, labourer, together with one James Rathwell, late of the same place, labourer, heretofore and before the said felony was committed in manner and form aforesaid, to wit, at the session of our lord the king of general gaol delivery, held for our said lord the king at Kingston-upon-Thames, in and for the county of S. on

(d) Cro. C. A. 124. 1 Leach, Starkie, 722. Ante 1 vol. 687. 402, 3. Cro. C. C. 8th Ed. 387.

Wednesday the twenty-first day of March, in the twenty-first year of the reign of our said lord the king, before sir Henry Gould, knight, one of the justices of our said lord the king of his court of common pleas at Westminster, and sir William Henry Ashurst, knight, one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, and others their fellows, justices of our said lord the king, assigned to deliver the said gaol of the prisoners therein being, was tried upon an indictment for that he [*here set out the indictment:*] and the said W. R. was thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to him the said W. R. and the same was allowed to him accordingly; and it was thereupon ordered by the said last mentioned court, that he the said W. R. pay a fine of one shilling to our said lord the king, and be imprisoned in the gaol of our said lord the king for the said county of S. for the space of nine months, which he the said Edward Reynolds is ready to verify and prove by the record thereof. And the said Edward Reynolds further saith that the said W. R. who stands convicted at the said delivery of the king's said gaol of Newgate, now here holden for the county of Middlesex, is the same person who was so convicted at the said session of general gaol delivery held at Kingston-upon-Thames aforesaid, in and for the said county of S. and not another or different person; wherefore, since the said W. R. hath already received the benefit of the statute, and been admitted to the clergy, the said Edward Reynolds, for our said lord the king, prays the judgment of the court here, and that the said W. R. may receive judgment to die according to law.

And the said W. C. esquire, attorney-general for our said Counterplea lord the king for the county palatine of Lancaster aforesaid, ^{to a plea} who prosecuteth for our said lord the king in this behalf as ^{praying the} ^{benefit of} ^{clergy, that} ^{had already} ^{been allow-} ^{ed. (e)} aforesaid, having heard S. B. who stands convicted at this present session of hearing and determining and general gaol delivery, now here holding for the county palatine of Lancaster, of unlawfully and feloniously, and against the form of the statute, putting off, [*setting out the offence in* the indictment,*] pray that the benefit of the statute in such case made and provided may be allowed to the said S. B. saith, that the said S. B. is not entitled to the benefit of the statute in such case made and provided, because she the said S. B. otherwise called S. M. by the name and description of S. B. late of, &c. single woman, heretofore, to wit, at the general session of assizes of our sovereign lord George the third, then king of Great Britain, France, and Ireland, defender of the faith, and so forth, of hearing and determining, and

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general gaol delivery, held at the castle of Lancaster, in and for the said county palatine of Lancaster, on, &c. before his majesty's trusty and well-beloved sir Soulden Lawrence, knight, one of the justices of our said sovereign lord the king, of his majesty's court of king's bench at Westminster, chief justice of our said sovereign lord the king of his majesty's court of common pleas within the said county palatine of Lancaster, and chief justice of all manner of pleas within the said county palatine, assigned to be held, heard, and determined, and his majesty's trusty and well beloved sir Simon Le Blanc, knight, one other of the justices of our said sovereign lord the king of his majesty's court of king's bench at Westminster, one of the justices of our said sovereign lord the king of his majesty's said court of common pleas within the said county palatine of Lancaster, and one of the justices of all manner of pleas within the said county palatine, assigned to be held, heard, and determined, and others their companions, justices and commissioners of our said sovereign lord the king, by the letters patent of him the said lord the king, under the seal of the said county palatine of Lancaster, to the said sir Soulden Lawrence and sir Simon Le Blanc and others, or any two or more of them directed, whereof the aforesaid sir Soulden Lawrence and sir Simon Le Blanc, amongst others our said lord the king would have to be two, as well to hear and determine as inquire by the oaths of honest and lawful men of the said county palatine of Lancaster, and by other ways, means, and methods, which they could as well within liberties as without, by which the truth of the matter might be better known and inquired of, all treasons, misprisions of treason, insurrections, rebellions, murders, felonies, homicides, burglaries, manslaughterers, rapes of women, unlawful congregations and conventicles, unlawful speaking of words, coadjunctions, misprisions, confederacies, false allegations, trespasses, riots routs, retainings, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champarties, deceits, and other misdemeanours, offences, and injuries whatsoever, and of the accessions to the same within the county aforesaid, as well against the form of the statute as against the common law, by whatsoever* and however had, made, perpetrated, or committed, and by whom and to whom, when, how, and after what manner, and of other articles and circumstances, the truth of the premises or any of them in any wise concerning, and the same treasons and other the premises to hear and determine and the gaol there to deliver, according to the law and custom of the kingdom of our said lord the king assigned, and so forth. For that she, the said S. B. being a person of evil name and conversation, and intending to deceive and injure the liege subjects of our said lord the king, to wit, on, &c. with force and arms at, &c. twenty pieces of false and counterfeited milled

[* 350]

money and coin, each and every of them made and counterfeited to the likeness and similitude of a piece of good, lawful, and current milled money and silver coin of this realm called a shilling, the same counterfeited pieces of money, or any of them, not being then cut in pieces, then and there unlawfully and feloniously did take and receive of and from one P. M. at a lower rate and value than the said counterfeited pieces of milled money did by their denomination import and were coined and counterfeited for, that is to say, for five pieces of current silver money and coin of this realm called shillings, being of the value of five shillings, against the form of the statute, &c. and against the peace, &c. And the said S. B. was therefore convicted, and prayed that the benefit of the statute in such case made and provided, might be allowed to her the said S. B. and the same was allowed to her accordingly; and it was considered by the court here, that the said S. B. should be fined one shilling, and imprisoned one year, which he the said W. C. attorney-general for our said lord the king for the said county palatine of Lancaster is ready to verify and prove by the record thereof; and that the said S. B. who stands convicted at the present general session of assizes and general gaol delivery now here holding for the county palatine of Lancaster, is the same person who was convicted at the said general session of assizes and general gaol delivery, holden at the castle of Lancaster, in and for the said county palatine of Lancaster, on, &c. and not another or different person: wherefore, since the said S. B. hath already received the benefit of the statute and been admitted to her clergy, the said W. C. esq. attorney-general for our said lord the king for the said county palatine of Lancaster, prayeth judgment of the court here, and that the said S. B. may receive judgment to die according to law.

But the counsel for the crown filed a counter plea, stating, that he was not entitled to the benefit of the statute in such case made and* provided, because he the said James Scott, by the name and description of James Scott, late of the liberty of the Tower of London, in the county of Middlesex, labourer, heretofore and before the said felony was committed, at the delivery of the king's gaol of Newgate, holden for the county of Middlesex at Justice Hall in the Old Bailey, &c. on Wednesday the 16th day of October, in the 22d year of George the third, &c. was tried upon an indictment for that one Isaac Votour, late of the liberty of the Tower of London, in the county of Middlesex, labourer, and Thomas Deane, late of the liberty aforesaid, in the county aforesaid, labourer, after the 24th day of June, 1771, to wit, on the 12th

Counterplea
to prayer of
benefit of
clergy, prior
conviction,
Middlesex.

(f)
[* 351]

(f) See 1 Leach, 402, 3, 4. Ante 1 vol. 687.

say, at the said parish of Saint Nicholas Cole-abbey, in the ward of Queenhithe aforesaid, at London, aforesaid, one piece of false, feigned, and counterfeit copper money, to the likeness and similitude of the said good, legal, and current copper money of this realm, called an halfpenny, then and there unlawfully and feloniously did make and coin against the form, &c. and against the peace, &c. And the said Thomas Pickering was thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to him the said Thomas Pickering, and the same was allowed to him accordingly; and it was considered and adjudged by the said last-mentioned court, that the said Thomas Pickering be branded in the hand and imprisoned in the said gaol of our said lord the king of Newgate, for the space of one year, which he the said T. S. is ready to verify and prove by the record thereof. And the said T. S. further saith, that the said Thomas Pickering, who stands convicted at the said delivery of the king's gaol of Newgate, now here holden for the city of London, is the same person who was so convicted at the said delivery of the king's gaol of Newgate, holden for the said city of London, at Justice hall, in the Old Bailey, on Wednesday, the thirteenth day of April, in the fourteenth year of the reign of our said lord the king, and not another or different person, wherefore, since the said Thomas Pickering hath already received the benefit of the statute, and been admitted to his clergy, the said T. S. for our said lord the king, prays the judgment of the court here, that the said Thomas Pickering may receive judgment to die according to law.

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(d)

[* 348]

And Edward Reynolds, who prosecutes for our said lord the king in this behalf, having heard William Rothwell, who stands convicted at the delivery of the king's gaol of Newgate, now here holden for the county of Middlesex, of unlawfully and feloniously, and against the form of the statute in such case made and provided, counterfeited one piece of copper money of this realm called an halfpenny, pray that the benefit of the statute in such case made and provided may be allowed to him, saith that the said W. R. is not entitled to the benefit of the statute in such case made and provided, because he saith that the said W. R. by the name and description of W. R. late of the parish of Saint George,* Southwark, in the county of Surrey, labourer, together with one James Rathwell, late of the same place, labourer, heretofore and before the said felony was committed in manner and form aforesaid, to wit, at the session of our lord the king of general gaol delivery, held for our said lord the king at Kingston-upon-Thames, in and for the county of S. on

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Wednesday the twenty-first day of March, in the twenty-first year of the reign of our said lord the king, before sir Henry Gould, knight, one of the justices of our said lord the king of his court of common pleas at Westminster, and sir William Henry Ashurst, knight, one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, and others their fellows, justices of our said lord the king, assigned to deliver the said gaol of the prisoners therein being, was tried upon an indictment for that he [*here set out the indictment:*] and the said W. R. was thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to him the said W. R. and the same was allowed to him accordingly; and it was thereupon ordered by the said last mentioned court, that he the said W. R. pay a fine of one shilling to our said lord the king, and be imprisoned in the gaol of our said lord the king for the said county of S. for the space of nine months, which he the said Edward Reynolds is ready to verify and prove by the record thereof. And the said Edward Reynolds further saith that the said W. R. who stands convicted at the said delivery of the king's said gaol of Newgate, now here holden for the county of Middlesex, is the same person who was so convicted at the said session of general gaol delivery held at Kingston-upon-Thames aforesaid, in and for the said county of S. and not another or different person; wherefore, since the said W. R. hath already received the benefit of the statute, and been admitted to the clergy, the said Edward Reynolds, for our said lord the king, prays the judgment of the court here, and that the said W. R. may receive judgment to die according to law.

And the said W. C. esquire, attorney-general for our said Counterplea lord the king for the county palatine of Lancaster aforesaid, ^{to a plea} who prosecuteth for our said lord the king in this behalf as ^{praying the} aforesaid, having heard S. B. who stands convicted at this ^{benefit of} present session of hearing and determining and general gaol ^{clergy, that} delivery, now here holding for the county palatine of Lancas- ^{had already} ter, of unlawfully and feloniously, and against the form of ^{been allow-} the statute, putting off, [*setting out the offence in* the indict-* ^{ed. (e)} *ment,*] pray that the benefit of the statute in such case made and provided may be allowed to the said S. B. saith, that the said S. B. is not entitled to the benefit of the statute in such case made and provided, because she the said S. B. otherwise called S. M. by the name and description of S. B. late of, &c. single woman, heretofore, to wit, at the general session of assizes of our sovereign lord George the third, then king of Great Britain, France, and Ireland, defender of the faith, and so forth, of hearing and determining, and

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general gaol delivery, held at the castle of Lancaster, in and for the said county palatine of Lancaster, on, &c. before his majesty's trusty and well-beloved sir Soulden Lawrence, knight, one of the justices of our said sovereign lord the king, of his majesty's court of king's bench at Westminster, chief justice of our said sovereign lord the king of his majesty's court of common pleas within the said county palatine of Lancaster, and chief justice of all manner of pleas within the said county palatine, assigned to be held, heard, and determined, and his majesty's trusty and well beloved sir Simon Le Blanc, knight, one other of the justices of our said sovereign lord the king of his majesty's court of king's bench at Westminster, one of the justices of our said sovereign lord the king of his majesty's said court of common pleas within the said county palatine of Lancaster, and one of the justices of all manner of pleas within the said county palatine, assigned to be held, heard, and determined, and others their companions, justices and commissioners of our said sovereign lord the king, by the letters patent of him the said lord the king, under the seal of the said county palatine of Lancaster, to the said sir Soulden Lawrence and sir Simon Le Blanc and others, or any two or more of them directed, whereof the aforesaid sir Soulden Lawrence and sir Simon Le Blanc, amongst others our said lord the king would have to be two, as well to hear and determine as inquire by the oaths of honest and lawful men of the said county palatine of Lancaster, and by other ways, means, and methods, which they could as well within liberties as without, by which the truth of the matter might be better known and inquired of, all treasons, misprisions of treason, insurrections, rebellions, murders, felonies, homicides, burglaries, manslaughter, rapes of women, unlawful congregations and conventicles, unlawful speaking of words, coadjunctions, misprisions, confederacies, false allegations, trespasses, riots routs, retainings, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champarties, deceits, and other misdemeanours, offences, and injuries whatsoever, and of the accessions to the same within the county aforesaid, as well against the form of the statute as against the common law, by whatsoever* and however had, made, perpetrated, or committed, and by whom and to whom, when, how, and after what manner, and of other articles and circumstances, the truth of the premises or any of them in any wise concerning, and the same treasons and other the premises to hear and determine and the gaol there to deliver, according to the law and custom of the kingdom of our said lord the king assigned, and so forth. For that she, the said S. B. being a person of evil name and conversation, and intending to deceive and injure the liege subjects of our said lord the king, to wit, on, &c. with force and arms at, &c. twenty pieces of false and counterfeited milled

[* 350]

money and coin, each and every of them made and counterfeited to the likeness and similitude of a piece of good, lawful, and current milled money and silver coin of this realm called a shilling, the same counterfeited pieces of money, or any of them, not being then cut in pieces, then and there unlawfully and feloniously did take and receive of and from one P. M. at a lower rate and value than the said counterfeited pieces of milled money did by their denomination import and were coined and counterfeited for, that is to say, for five pieces of current silver money and coin of this realm called shillings, being of the value of five shillings, against the form of the statute, &c. and against the peace, &c. And the said S. B. was therefore convicted, and prayed that the benefit of the statute in such case made and provided, might be allowed to her the said S. B. and the same was allowed to her accordingly; and it was considered by the court here, that the said S. B. should be fined one shilling, and imprisoned one year, which he the said W. C. attorney-general for our said lord the king for the said county palatine of Lancaster is ready to verify and prove by the record thereof; and that the said S. B. who stands convicted at the present general session of assizes and general gaol delivery now here holding for the county palatine of Lancaster, is the same person who was convicted at the said general session of assizes and general gaol delivery, holden at the castle of Lancaster, in and for the said county palatine of Lancaster, on, &c. and not another or different person: wherefore, since the said S. B. hath already received the benefit of the statute and been admitted to her clergy, the said W. C. esq. attorney-general for our said lord the king for the said county palatine of Lancaster, prayeth judgment of the court here, and that the said S. B. may receive judgment to die according to law.

But the counsel for the crown filed a counter plea, stating, that he was not entitled to the benefit of the statute in such case made and* provided, because he the said James Scott, by the name and description of James Scott, late of the liberty of the Tower of London, in the county of Middlesex, labourer, heretofore and before the said felony was committed, at the delivery of the king's gaol of Newgate, holden for the county of Middlesex at Justice Hall in the Old Bailey, &c. on Wednesday the 16th day of October, in the 22d year of George the third, &c. was tried upon an indictment for that one Isaac Votour, late of the liberty of the Tower of London, in the county of Middlesex, labourer, and Thomas Deane, late of the liberty aforesaid, in the county aforesaid, labourer, after the 24th day of June, 1771, to wit, on the 12th

Counterplea
to prayer of
benefit of
clergy, prior
conviction,
Middlesex.
(f)
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(f) See 1 Leach, 402, 3, 4. Ante 1 vol. 687.

day of September, in the 22d year of George the third, one piece of copper money of this realm called an halfpenny unlawfully and feloniously did make, coin, and counterfeit; and for that the said James Scott, before the said felony last mentioned was committed in form aforesaid, to wit, on the 12th day of September, in the 22d year of George the third, did unlawfully, feloniously, counsel, and abet and procure the said Isaac Votour and Thomas Deane to do and commit the said felony in manner and form aforesaid, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity; and farther, that the said Isaac Votour and Thomas Deane, after the 24th day of June, 1771, to wit, on the 12th day of September, in the 22d year aforesaid, one piece of false, forged, and counterfeited copper money to the likeness and similitude of the good, legal, and current copper money of this realm called an half-penny, unlawfully and feloniously did make and coin; and farther, that the said James Scott, before the last mentioned felony was committed, to wit, on the 12th day of September, in the 22d year aforesaid, within the liberty aforesaid, in the county aforesaid, did unlawfully and feloniously counsel and abet, and procure the said Isaac Votour and Thomas Deane to do and commit the said last mentioned felony in manner and form aforesaid, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. The counter plea then proceeded to state, that the said James Scott was thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to him the said James Scott, and the same was allowed to him accordingly; and it was considered and adjudged by the said court last mentioned, that the said James Scott pay a fine of twelve pence, and be imprisoned in the said gaol of Newgate for the space of one year, which the said Thomas Shelton is ready to verify and

[* 352] prove by the* record thereof; and that the said James Scott, who stands convicted at the said delivery of the king's gaol of Newgate, now here holden at the said city of London, is the same person who was convicted at the said delivery of the said king's gaol of Newgate, holden for the county of Middlesex at Justice Hall in the Old Bailey, &c. on Wednesday the 16th of October, in the twenty-second year, &c. and not another and different person; wherefore, since the said James Scott hath already received the benefit of the statute, and been admitted to his clergy, the said Thomas Shelton, for our said lord the king, prayeth judgment of the court here, and that the said James Scott may receive judgment to die according to law. To this counter plea the prisoner replied nul tiel record, and denied that he was the person named in the said plea, and the crown joined issue on this replication.

To the counter plea of clergy the defendant may plead ^{Pleas in answer to the counterplea.} nul tiel record of the former conviction. Se form, 1 Leach. 404, and which may be framed from the replication of no record of conviction in Cro. C. C. 8th Ed. 390, 1, or may plead denying the identity of himself and the party before convicted.

These are to certify, that at the session of our lord the king of oyer and terminer and general gaol delivery, held for our said lord the king at K. in and for the county of S. on, &c. before, &c. and others their fellows, justices of our said lord the king, assigned to hear and determine and to deliver the said gaol of the prisoners therein being, A. B. late of, &c. labourer, was tried upon an indictment, for that he the said A. B. on, &c. with force and arms at, &c. in the county aforesaid, one piece of copper money of this realm called an halfpenny, then and there unlawfully and feloniously did make, coin, and counterfeit, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity; and further, that he the said A. B. on, &c. with force and arms at, &c. one piece of false, feigned, and counterfeit copper money, to the likeness and similitude of the good, legal, and current copper money of this realm called an halfpenny, then and there unlawfully and feloniously did make and coin, against the form, &c. and against the peace, &c. and was thereupon convicted, and prayed that the benefit of the statute in such case made and provided, might be allowed to him the said A. B. and the same was allowed to him accordingly; and it was thereupon ordered by the said last mentioned* court, that he pay a fine of one shilling to our said lord the king, and be imprisoned in the gaol of our said lord the king, for the said county, for the space of nine months, as appears by the records of my office. Dated the — day of — in the year of our Lord —. ^{Certificate of the former conviction. (f)} [* 353] M. N. clerk of assize.

And it appearing by a certain record of attainder, which hath been removed into this court by his majesty's writ of certiorari, that the prisoner at the bar stands attainted by the name of C. D. of a felony for a robbery on the high way, and the said prisoner at the bar having heard the record of the said attainder now read to him, is now asked by the court here what he hath to say for himself, why the court here should not proceed to award execution against him upon the said attainder. He for plea saith, that he is not the same C. D. in the said record of attainder named, and against whom judgment was pronounced, and this he is ready to verify and prove, &c. To which the honourable A. B. attorney-general of our present sovereign lord the king, who for our said lord the king in this behalf prosecuteth, being now pre- ^{Entry of denial of identity. Replication and issue joined thereon. (h)}

(f) Ante 1 vol. 687. Starkie, 724. (i) 4 Bla. Com. Appx. V. ante 1 vol. 423.

sent here in court, and having heard what the said prisoner at the bar hath now alledged, for our said lord the king, by way of reply saith, that the said prisoner now here at the bar is the same C. D. in the said recorder of attainder named, and against whom judgment was pronounced as aforesaid, and this he prayeth may be inquired of by the country, and the said prisoner at the bar doth the like. Therefore, &c. [*award of venire instantur, jury sworn, &c.*]

Oath to juror on trial of identity. (i)

You shall well and truly try whether the prisoner at the bar was convicted of —, at the Old Bailey, on Wednesday the 16th of October, 1782, and whether he is the same person that was then and there tried and convicted, and received the benefit of his clergy. And a true verdict, &c.

Record of judgment of death on collateral issue at the assizes, on the identity of a prisoner. (k)

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Warwickshire. Be it remembered that at the general sessions of gaol delivery of our said lord the king holden at Warwick, in and for the county of Warwick, on Thursday, the third day of March, in the fourteenth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before George Hill, one of the serjeants at law of our said lord the king, Joseph Sayer, serjeant at law, and Harley Vaughan, serjeant at law, and others their fellows, justices of our said lord the king, assigned to deliver the gaol of the said county of the prisoners therein being. J. C. being* brought to the bar of this court under the custody of W. H. esq. sheriff of the said county of Warwick, by virtue of his majesty's writ of habeas corpus, and the same writ being read, it is ordered that the said writ and the return thereof be filed. And it appearing by a certain record of conviction and attainder that the prisoner at the bar stands attainted by the name of J. C. of felony, burglary and sacrilege, committed in the county of Warwick, and the said prisoner at the bar having heard the record of the said conviction and attainder now read to him, is asked by the court here what he hath to say for himself why the court here should not now proceed to award execution against him upon the said conviction and attainder, he for plea saith that he is not the same J. C. in the said record of conviction and attainder named, against whom judgment of death was pronounced, and this he is ready to verify and prove. And J. B. esq. clerk of the crown, and clerk of the assizes for the said county of Warwick, who prosecuteth for our said lord the king in this behalf, by I. W. gentleman, his deputy for that purpose, lawfully constituted, &c. being now present here in court, and having heard what the said prisoner at the bar hath now alledged, he for our said lord the king, by way of reply saith, that the said prisoner now here at the bar is the same identical

(i) 1 Leach, 404. Ante 1 vol. 688.

(k) From Mr. Nicholi's MSS. Ante 1 vol. 423.

J. C. in the said record of conviction and attainder named, and against whom judgment of death was thereupon pronounced as aforesaid, and this he prayeth may be enquired of by the country. And the said J. C. the prisoner at the bar, doth the like. And therefore let a jury in this behalf immediately come here before the justices of our said lord above named, and others their fellows aforesaid, by whom the truth of the matter may be better known and enquired into, and who have no affinity to the said prisoner, to try upon their oath whether the said prisoner at the bar be the same identical J. C. in the said record of conviction and attainder named, and against whom judgment of death was so pronounced as aforesaid, or not, because as well the said J. B. esq. who prosecuteth in this behalf by I. W. his deputy as aforesaid, as the said prisoner at the bar, have put themselves upon that jury. And the jurors of the said jury by the said sheriff for this purpose impanelled and returned, to wit, J. D. T. S. &c. being called come, who being chosen, tried and sworn to speak the truth of and concerning the premises last aforesaid, and having heard the said record of conviction and attainder read to them, and the testimony of witnesses upon oath given in open court, do say upon their oath that the said prisoner at the bar is the same identical J. C. in the said record, conviction and attainder named, and against whom judgment of death was so pronounced as aforesaid in manner and form as the said J. B. esq. who prosecuteth as aforesaid, by I. W.* his deputy lawfully constituted as aforesaid, hath by the said replication to the said plea of the said prisoner now here at the bar alledged, and hereupon the said J. B. esq. who prosecuteth as aforesaid, by I. W. his deputy lawfully constituted as aforesaid on behalf of our said lord the king, now prayeth that the said court here would proceed to award execution against him the said J. C. upon the said conviction and attainder as aforesaid, whereupon all and singular the premises being now seen and fully understood by the court and justices here it is ordered by the court and justices here, that the execution of death be done upon the said prisoner at the bar, J. C. for said felony, burglary, and sacrilege, in pursuance of the conviction and attainder aforesaid according to the course of law.

[* 355]

Blencowe.

And because by the inspection of the record before our lord the king hither sent it appears, &c. that the said J. D. stands indicted (*setting forth the effect of the record*) and that he is the same person; and this he, the said C. D. does not deny; therefore it is considered that the privilege of clergy

Judgment on
prayer of
clergy, when
defendant
had had it
before. (l)

(l) 2 Hale, 396. Ante 1 vol. 688.

be not allowed to the said C. D. and that he be hanged by the neck until he be dead.

Judgment of allowance of clergy. (m)

Whereupon it is then and there inquired by the court of our said lord the king of the said C. D. if he have or know any thing to say for himself why the court of our lord the king here should not proceed to judgment and execution against him upon the verdict aforesaid; and thereupon the said C. D. says that he is a clerk, and prays that the benefit of clergy may be allowed him in this behalf, and the book being given to the said C. D. he reads as a clerk, whereupon it is considered by the court here that the said C. D. be burnt in his left hand, and be delivered, (n) and the execution is accordingly entered, and let him instantly be branded in his left hand, and be delivered according to the form of the statute.

Judgment of allowance of clergy to a clerk. (o)

And because it appears to the court here by the certificate of the bishop, &c. (or "by the letters testimonial of the bishop,") that the said C. D. is a clerk in holy orders ordained, to wit, in the order of a —, therefore it is considered by the court that he be delivered according to the form of the statute in this case made and provided without burning.

Ancient mode of admission to the benefit of clergy. (o) [* 356]

Hereupon his clergy was allowed him, and he was tried by the ordinary of —, who gave him a psalm to read, whereof he read* the first verse, and then Sir Samuel Astry asked the ordinary "*Legit vel non?*" who answered *Legit*.

AFFIDAVIT, &c. OF ROAD BEING IN REPAIR.

Northampton.

The King
against

the inhabitants of Kilsby,
for a nuisance.

Affidavit of a surveyor, of repairing part of road indicted, in order to get same respited. (p)

T. C. of Kilsby, in the county of Northampton, yeoman, surveyor of the highways in the parish of Kilsby aforesaid, maketh oath and saith, that the said inhabitants were indicted for not repairing the road, leading, &c. and this deponent saith, that since the last assizes holden in and for the said county, to wit, in the said several months of May, June, and July last, he, this deponent, did use, lay in, and spread upon six furlongs of that part of the road which is so indicted as aforesaid, and which extends towards the said Walling-street road

(m) 2 Hale, 395.

(n) Quære—Should not the reading and burning in the hand be omitted? 4 Bla. Com. App. IV. Ante 1 vol.

(o) See 2 Hale, 396. Ante 1 vol. 688.

(o) 1 Salk. 61. Ante 1 vol. 667, 688, &c.

(p) Ante 1 vol. 699. From Mr. Nicholl's MS. The affidavit must in general state, that the road is likely to continue in repair, see 3 Smith, 575, 6.

from the said J. R.'s homestead, about two hundred and fourteen loads of gravel stones and other good materials. And this deponent saith, that in the months of December and January last, he, the said deponent, did cause to be properly laid and spread upon the said road upwards of one hundred loads of gravel stones and other good materials in and towards the repair of the same, and since the said month of July last, and particularly in the months of September, October, November, and December, and January last, he, this deponent, did employ several labourers upon the said road so indicted as aforesaid, in levelling and repairing the same. And, lastly, this deponent saith, that he hath procured and got ready upwards of two hundred and forty loads of stones and other materials to be drawn upon the said road for the repair of the same as soon as the weather will permit, and since the said indictment hath been preferred the said road hath been very much improved, and that, he believes, previous to the next assizes the whole of the said road will be well and effectually repaired and amended. T. C.

Sworn the 11th day of March, 1789.

A. Thompson.

Northamptonshire.

We, two of his majesty's justices of peace in and for the county of Northampton, whose hands and seals are hereunto subscribed* and set (one of us being of the quorum,) do hereby certify that we have within the space of ten days before the date and signing and sealing hereof, viewed and inspected a certain part of the common and ancient king's highway lying in the parish of Daventry, in the said county of Northampton, leading from the town of Kilsby, in the said county, towards and unto the market town of Daventry aforesaid, beginning at a certain place called Farmers Slade in the said parish of Daventry, and extending from thence to the end of Dog-lane in the parish of Daventry aforesaid, containing in length five furlongs and in breadth thirty feet, and which was presented or indicted at the Lent assizes, holden in and for the said county of Northampton in the year of our Lord 1788, for being ruinous and in decay for want of due reparation and amendment. And we do hereby certify, that it appears to us that the said common and ancient road or highway hath been lately well and effectually repaired and amended by the surveyor of the said road or by the inhabitants of the said parish of Daventry. And we do hereby further certify, that the same public road or highway is now in very good repair and likely to continue so. Given under

Certificate of
two justices
of road being
in repair. (g)
[* 357]

(g) From Mr. Nicholl's MSS. 6 T. R. 635. 13 East. 164.
Ante 1 vol. 690. § Smith, 575.

our hands and seals the 9th day of March, in the year of our Lord one thousand seven hundred and eighty-nine.

John Clarke, (L.S.)

G. Freeman. (L.S.)

Affidavit of
execution
thereof.

— maketh oath and saith, that he was present and did see John Clarke, esquire, and the reverend G. Freeman, doctor of laws, two of his majesty's justices of the peace in and for the county of Northampton, duly sign and seal the certificate hereunto annexed, and that the names John Clarke and G. Freeman, thereto subscribed, are of the respective hands writing of them the said John Clarke and George Freeman.

Sworn in court the 11th
of March, 1789.

A. Thompson. }

J. C.

Certificate of
production of
justices' cer-
tificate of
road being in
repair, pay-
ment of fine,
and dis-
charge of de-
fendant.

To the right honourable sir S. S. Smythe, knight, &c.

These are humbly to certify that at the assizes and general sessions of oyer and terminer and general gaol delivery held for the county of Leicester, on Thursday the 10th day of March, 1774, before the honourable sir William Blackstone, knight, one of the justices of our lord the king of his court of common pleas, and others his fellows, justices of our said lord the king, assigned to enquire of all treasons, murders, felonies, misdemeanours, and all other offences committed within the county aforesaid, and also to hear and determine the same, a writ of distringas directed to the* sheriff of the county aforesaid, was awarded and issued against the inhabitants of the within mentioned parishes of Cosby and Shepy for not appearing (after being before duly summoned) and answering to certain indictments found against them for nuisances in not repairing certain highways within their several parishes, and that at the following assizes and general session of oyer and terminer and gaol delivery held for the county aforesaid, on Thursday the 24th day of July, 1774, before the honourable Geo. Perrott, esquire, then one of the barons of our said lord the king of the court of exchequer, and others his fellows, justices of our said lord the king, assigned to enquire of all treasons, murders, felonies, misdemeanours, and all other offences whatsoever committed within the county aforesaid, the within mentioned sheriff of the county aforesaid, returned to the court and justices last above mentioned, upon the said writ of distringas to him as aforesaid directed, that he had distrained on the several inhabitants of the two several parishes above mentioned as follows, to wit, issues on the said parish of Cosby ten pounds, and on the said parish of Shepy five pounds, which issues were by the court and justices last above mentioned, ordered to be estreated, and were accordingly estreated into his majesty's court of exchequer. And I do hereby further certify, that at the same last above mentioned assizes and

[* 358]

general session of oyer and terminer and general gaol delivery, two of the inhabitants of the said parish of Cosby, on behalf of themselves and the rest of them, did appear and plead specially to the indictment against them, that a certain other person by reason of his tenure of lands was bound to repair, that part of the road alledged to be out of repair, and that no replication or other proceedings have been filed or had thereon; and I do hereby also further certify, that at the assizes and general sessions of oyer and terminer and general gaol delivery held for the county aforesaid, on Wednesday the 9th day of August, 1775, before the honourable sir Richard Ashton, knight, one of the justices of our said lord the king assigned to hold pleas before the king himself, and others his fellows, justices of our said lord the king, assigned to enquire of all treasons, murders, felonies, misdemeanours, and all other offences committed within the county aforesaid, and also to hear and determine the same, the inhabitants of the said parish of Shepy did appear and plead guilty to the indictment against them, and on producing a certificate and an affidavit of the due repair of the road alledged in the indictment to be out of repair, they were by the court and justices last above mentioned fined 3s. 4d., and are now freed and discharged of the indictment aforesaid against them. Dated this — day of February, 1776.

And* on producing a certificate under the hands and seals of two of his majesty's justices of the peace for the same county, and also an affidavit that the same part of the king's highway was thoroughly repaired and amended, they, the said inhabitants, were, by the court and justices last above mentioned, fined one shilling, and were freed and discharged of the indictment aforesaid. Dated this — day of —.

[* 359]
The like on
producing
certificate
only.

PROCESS BY LEVARI.

George, &c. To William Wollaston, of Great Fenborough, in our county of Suffolk, esquire: we command you that you do not omit, by reason of any liberty in your bailiwick, but that you enter therein and levy or cause to be levied upon the goods and chattels, lands and tenements of the inhabitants of the parish of St. Gregory, in our said county of Suffolk, by distress and by sale of the said goods and chattels so distrained, the sum of 140*l.* set and imposed upon them in our court of oyer and terminer for our said county of Suffolk, by our justices of oyer and terminer at this present session of oyer and terminer now holden at Bury St. Edmunds, in and for our said county of Suffolk, for their fine for a certain trespass, nuisance, and misdemeanour for not

Levari facias
for fine im-
posed by
court of oyer
and termi-
ner, on in-
dictment for
not repairing
highway. (r)

repairing a certain part of the common and ancient king's highway lying in the said parish of St. Gregory in our said county of Suffolk, whereof they are indicted and convicted, and which said fine so set and imposed as aforesaid, our said justices of oyer and terminer, at this present session of oyer and terminer have nominated to be levied by and ordered to be paid to you, and that you expend, lay out, and employ the said money so to be levied in and about the repairs of the highway aforesaid, in the parish aforesaid, in our county of S. aforesaid, and how you shall have executed this our writ make appear to our justices of oyer and terminer for our said county of S. at the next sessions of oyer and terminer to be holden in and for our said county of S. and have you then there this writ.

Witness, George Parrot, esquire, at Bury St. Edmunds, 13th day of May, in the twelfth year of our reign.

Fleetwood.

The like
from Crown
Office. on
stat. 3 W. &
M. c. 12. s.
14. (s)

[* 360]

George, &c. To A. B. and C. D. surveyors of the highways within the parish of E. in our county of F.: we command you that you do not omit, by reason of any liberty in your bailiwick, but that you levy or cause to be levied upon the goods and chattels, lands and tenements of G. H. of the parish of E. in the said county of F. by distress and sale of the said goods and chattels, so distrained, the sum of 10*l*. forfeited by him the said* G. H. by reason of certain trespasses and contempts against the form of the statute made for the repair of highways, whereof he stands indicted, and thereupon by a certain jury of the county taken between us and the said G. H. he is convicted, as it appeareth in our court before us upon record, and that you expend and employ the said money so to be levied in and about the repairs of the highways within the parish aforesaid, in the county aforesaid, and how you shall have executed this our writ make it appear to us in three weeks from the feast day of St. Michael, wheresoever we shall then be in England, and that you have then there this writ. Witness, &c.

By the court,

Barrow.

[Others have this clause, "and that you have the money before us, &c. the return."]

NOTICES OF MOTION FOR JUDGMENT.

Notice of
motion for
judgment to
defendant
and his bail
on indictment. (s)

In the king's bench.

The King
against
S. H.

Take notice, that this honourable court will be moved on Tuesday the sixth day of this instant, or so soon after as counsel can be heard, that you the said defendant S. H. may

(s) From Mr. Nicholl's MS. (r) Ante 1 vol. 691. See Hand Pr. 420.

be called to appear and receive the judgment of the said court upon the indictment whereof you stand convicted; and in case you the said defendant do not appear, the said court will then be moved that such default may be recorded, and that the recognizance entered into by you I. K. of, &c. and L. M. of, &c. for the personal appearance of you the said defendant in this court, may be estreated into his majesty's court of Exchequer. Dated the first day of May, 1802.

Your's,

W. H. solicitor for the prosecution.

To S. H. the above-named defendant, and the said I. K. and L. M. his bail.

King's bench
Cambridgeshire.

The King
against
James Newsham.

The like in
the modern
form.

Take notice that this honourable court will be moved on Friday the third day of February next, or so soon after as counsel can be heard, that judgment may be passed upon the said defendant upon the indictment for certain nuisances whereof he stands convicted. Dated the 26th day of January, 1815.

To Mr. C. M. }
Defendant's Attor. }
In* the king's bench.

Your's, &c.

R. M.
Solicitor for the prosecution.

The King
against

A. B. esquire.

[* 361]
The like on
prosecutions
by informa-
tion. (u)

Sir,

Take notice, that this honourable court will be moved on Monday the 15th day of November instant, or so soon after as counsel can be heard, that you the said defendant A. B. may be called to appear and receive the judgment of the said court, upon the *information* whereof you stand convicted. Dated the 6th day of November, 1802. Your's, &c.

W. H. solicitor for the prosecution.

To A. B. esquire, the above-named defendant.

In the king's bench.

The King
against

C. D. esquire.

The defen-
dant's notice
of his appear-
ing to re-
ceive the
judgment.
(x)

Sir,

I do hereby give you notice, that the above-named defendant C. D. will, on Tuesday the 16th day of November instant, personally be and appear in open court [*if defendant be in custody, say, "be brought into this honourable court in order to receive," &c.*] in order to receive the judgment of the said court, for the misdemeanours whereof he stands convicted. Dated the 10th day of November, 1802. Your's, &c.

W. N. solicitor for the said defendant.

To Mr. W. H. solicitor for the prosecution.

(u) Ante 1 vol. 691. Hand, proceeding by indictment.
Prac. 131. Though this is a form (x) Hand. Prac. 131. Ante 1
in a prosecution, by information vol. 691.
it may readily be applied to a

Rule to dispense with defendant's personal appearance on the undertaking of his solicitors to pay any fine which may be imposed upon him.
(y)

Tuesday next after the morrow of All Souls, in the fifty-fifth year of king George the third.

Cambridgeshire,

The King

against

James Newsham.

It is ordered that Saturday next be given to the prosecutor to shew cause why the personal appearance of the defendant in this court upon the giving of sentence in this prosecution should not be dispensed with, upon the undertaking of Messrs. Banter and Bowsher to pay such fine as shall be imposed by this court upon the defendant for the nuisances whereof he is convicted in this prosecution, upon notice of this rule to be given to the attorney or agent for the prosecutor in the mean time.

On the motion of Mr. ——. By the court.

In the king's bench.

The King

v.

C. D.

Affidavit of defendant in mitigation of punishment or fine, relative to removing a nuisance to the river Thames. (y)
[* 362]

C. D. of, &c. the above-named defendant, and G. H. of, &c.* make oath and say, and first this deponent C. D. for himself saith, that, having at the last assizes holden at, &c. in, &c. been convicted of unlawfully erecting and placing and continuing a certain ledge or dam in and across the river of T. near R. in the county of S. he this deponent did in the month of August last, as soon as the then late flood had abated, and shortly after the said trial, cause the same, or such part thereof as appeared to him to be absolutely necessary to be effectually removed, the only small part thereof which he this deponent left still remaining in the said river, being several feet below the surface of the water, even at low water, and such as he this deponent apprehended and believed not to be any ways the least injurious or prejudicial to the navigation of the said river; and this deponent (meaning himself, the said C. D.) further saith that, on, &c. in the afternoon of the same day, he employed A. B. C. D. &c. three of his, deponent's servants, to pull up and remove the remainder of the said ledge or dam, and that they then levelled and made the same even with the bed of the river there, in consequence of which no part whatever of the said ledge or dam then remained in or upon the bed of the said river, or any part thereof; and this deponent, &c. [*here state other facts in mitigation, according to the facts, and as directed ante 1 vol. 691, 2.*]

Writ of attachment.(z)

George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith,

(y) This rule was made absolute. The defendant had previously served a notice that he would personally attend in court on a particular day to receive

judgment.

(y) Ante 1 vol. 691, 692. See form, 4 Went. 261.

(z) Hand. Prac. 507.

to the sheriff of our county of K. greeting: We command you that you do not forbear, by reason of any liberty in your bailiwick, but that you attach T. P. D. B. H. I. and W. C. so that you may have them before us at W. on Saturday next after the morrow of the Ascension of our Lord, to answer to us for certain trespasses and contempts brought against them in our court before us, and have you then and there this writ. Witness L. lord K. at W. the fifth day of May, in the forty-first year of our reign.

By the court,

Templer.

CHAPTER* XVI.

[* 363]

PROCEEDINGS RELATIVE TO THE JUDGMENT—OF PROCLAMATION, &c. BEFORE JUDGMENT—ADDRESS OF DEFENDANT—SPEECH OF JUDGE—FORMAL SENTENCES ON CONVICTION AND ACQUITTAL, AND RECORDS OF JUDGMENTS.

PROCLAMATION BEFORE JUDGMENT.

Oyez. My lords the King's justices do strictly charge and command all manner of persons to keep silence whilst sentence of death is passing against the prisoner at the bar upon pain of imprisonment. Proclamation before sentence of death. (a)

Oyez. All manner of persons are commanded to keep silence whilst judgment is given against the prisoner at the bar upon pain of imprisonment. Proclamation at sessions. (b)

(a) Cro. C. C. 482. Ante 1 (b) Dick. Sess. 228. 1 vol. 699. vol. 699.

The like on
a trial of a
traverse. (c)

Call to de-
fendant be-
fore judg-
ment, for
capital of-
fence (d)

[* 364]

The like in
another
form. (e)

The like in
another
form, before
judgment of
death (f)

Call to pri-
soner before
judgment,
for petit lar-
ceny. (g)

Speech of
judge prece-
ding formal
judgment.
(h)

All manner of persons are commanded to keep silence whilst judgment is given upon pain of imprisonment.

C. D. hold up your hand. You have been indicted of the wilful murder of A. B. and thereupon have pleaded not guilty, and for* your trial have put yourself upon God and the country, which country hath found you guilty, what have you now to say why the court should not pronounce sentence of death against you?

Clerk of Arraigns.—Matthew Mahony, hold up thy hand. Thou hast been indicted for felony and murder; thou hast been thereupon arraigned; thou hast pleaded thereunto not guilty, and for thy trial thou hast put thyself upon God and thy country, which country hath found thee guilty, what hast thou to say for thyself why the court should not proceed to give judgment of death upon thee, and award execution according to law?

C. D. hold up your hand. You stand convicted of felony, (*naming the crime.*) What can you say for yourself why the court should not give you judgment to die according to law?

C. D. hold up your hand. You stand convicted of stealing goods to the value of 10d. What can you say for yourself why the court should not proceed to award judgment as in cases of petit larceny?

Lord Chief Justice Holt.—Mr. Knightly, you are, by your own confession, convicted of high treason in designing the murder of the king, and the subversion of the whole state of England, in promoting an invasion from the French, its most ancient and inveterate enemies. It hath appeared before your arraignment, not only by the evidence that hath been given at former trials, but even by the signs of the times and the manner of some men's actings, that there hath been for some years last past a train of plots and conspiracies against this government, and when the various means which the conspirators did project among themselves for its ruin proved ineffectual, it was at last resolved among some of the conspirators to assassinate the king as the most certain way of accomplishing their end. In which design you were deeply engaged, and was an active instrument in the carrying it on, being sent to view the ground on both sides the water; and, with others that were sent with you, reported your opinion, which was the most convenient place to attack the king and

(c) From Mr. Nicholl's MS.
Ante 1 vol. 699.

(d) From Mr. Nicholl's MS.
Ante 1 vol. 699.

(e) 6 Harg. St. Tr. 833. Ante
1 vol. 699.

(f) From Mr. Nicholl's MS.
Ante 1 vol. 699, 700.

(g) From Mr. Nicholl's MS.
Ante 1 vol. 699, 700.

(h) See 4 Harg. St. Tr. 3 East's
Reports, 581, as to duelling.

his guards. [*Here were other observations applicable to the case.*]

There being then nothing to be said that can palliate such a crime as that of which you are convicted; but you having taken a different course the last time you were at the bar from what you took* at first, you have relinquished your plea of not guilty, and have confessed the indictment; I wish, out of charity to your person, it was as sincere as I think it was prudent in you; for after several convictions of others that were your accomplices, you could not be a stranger to the evidence upon which they were grounded, you must therefore in all probability have expected to have undergone the same fate. If your confession be a real effect of your repentance, you will reap the advantage of it in the next world; but what consequence it will have in this I cannot say; for the heart of the king is in the hand of the Almighty, which, as the rivers of water, he turneth whithersoever he will. Live therefore for the time to come in expectation of a speedy death, and prepare yourself to appear before another judgment seat; to the making of which important preparation I shall dismiss you, first discharging the court of the duty now incumbent upon it in giving that judgment which the law hath appointed. And the court doth award,

"That you be conveyed from hence to Newgate, the Formal prison from whence you came; and from thence you are to be drawn upon a hurdle to Tyburn, where you are to be hanged by the neck, and while you are alive to be cut down, your privy members are to be cut off, and your bowels to be cut out of your body, and burnt in your view; your head is to be cut off, and your body is to be divided into four parts, and your head and your quarters to be disposed where his majesty shall appoint. And I pray God to have mercy on your soul."

Whereupon all and singular the premises being seen, and by the court (or "justices") here fully understood, it is considered by the court here that, [*here state the punishment as in the following form, in the third person, and then execution of the sentence is entered in the following manner:*] And immediately he is, &c. (*stating the execution of the punishment,*) according to the form of the statute.

The sentence as delivered in court is of course in the second person, introduced by the words, "The sentence of the court is as follows, though usually preceded by a suitable address."

That* you be drawn on a hurdle to the place of execution, and be there hanged by the neck until you be dead, and that

(i) See other ancient forms, 3 Harg. St. Tr. 214. Ante 1 vol. 701, 2. See the form post 366, for the present judgment. (k) See ante 1 vol. 700. 4 Bla. Comm. App. IV. (l) Ante 1 vol. 700.

high treason. afterwards your head shall be severed from your body, and
(*l*) your body divided into four quarters shall be disposed of as shall seem fit to his majesty.

Ancient
judgment
for high trea-
son. (*m*)

The judgment of the law is, and this court doth award that, You go to the place from whence you came, from thence you must be drawn upon a hurdle to the place of execution; when you come there you must be hanged up by the neck, but not till you are dead, for you must be cut down alive, your privy members must be cut off, and your bowels ripped up before your face and thrown into the fire; then your head must be severed, and your body divided into four quarters, and these must be at the disposal of the king. And God Almighty be merciful to your soul.

Entry of
judgment
where de-
fendant had
confessed
indictment
for high trea-
son. (*n*)

And immediately it is inquired of the said John Hampden, if he has or knows any thing to say for himself why the court here should not proceed to judgment and execution thereof upon the conviction aforesaid, and his own confession of the high treason aforesaid in the indictment aforesaid above specified, who says nothing farther except as he had said before. Upon which all and singular the premises being seen, and by the court here understood, it is considered by the court here that the said John Hampden be led to the gaol of our said lord the king of Newgate, from whence he came, and be there put upon a hurdle, and from thence be drawn to the place of execution, and be there hanged by the neck, and be cut down alive, and that his privy members be cut off and his entrails be taken out of his body before his face, and be put upon the fire, and there burned; and that his head be cut off, and his body divided into four parts; and that his head and quarters be placed where our lord the king shall wish to assign them.

Ancient
judgment in
high treason
upon a man.
(*o*).

The offender, being a man, shall be drawn upon a hurdle to the place of execution, and there shall be hanged by the neck, cut down alive, and his entrails and privy members shall be cut from his body, and burnt within his view, and then his head shall be cut off, and his body quartered, and then to be disposed of at the king's will. Also he shall forfeit all his lands and goods to the king.

Upon a wo-
man

That she shall be drawn on a hurdle to the place of execution, and there burned.

[* 367]
Judgment
for treason
relating to
the coin and
petit treason.
(*p*)

That* you, the said C. D. be drawn to the gallows at Tyburn, and be there hanged by the neck until you be dead.

(*l*) 54 Geo. III. c. 146. Ante den. Trem. 310.

1 vol. 702.

(*o*) Dalt. J. c. 141, p. 335.

(*m*) 2 Hale, 397. 3 Harg. St. Ante 1 vol. 702.

Tr. 214. 4 id. 180. Ante 1 vol. 701, 2.

(*p*) 1 Hale, 351. Ante 1 vol. 702, 3.

(*n*) The King against Hamp-

Upon this, all and singular the premises being seen, and by the court here fully understood, it is considered that the said C. D. be hanged by the neck until he be dead.

Entry of similar judgment. (q)

Nothing remains for me but to pronounce the dreadful sentence of the law; and the judgment of the law is, and this high court doth award,

Judgment by peers against Lawrence, earl Ferrers, for murder.

That you, Lawrence, earl of Ferrers, return to the prison of the tower, from whence you came; from thence you must be led to the place of execution, on Monday next, being the 21st day of this instant, April; and when you come there, you must be hanged by the neck till you are dead, and your body must be dissected and anatomized.

(r)

And God Almighty be merciful to your soul.

Whereupon all and singular the premises being seen, and by the justices here fully understood, it is considered by the court here, that the said C. D. be taken to the gaol of our said lord the king, of the said county of —, from whence he came, and from thence to the place of execution, on Monday now next ensuing, being the ninth day of this instant August, and there be hanged by the neck until he be dead, and that afterwards his body be dissected and anatomized.

Judgment for murder, hanging and dissection.

(s)

Upon their oath say, that the said A. B. is guilty of feloniously killing and slaying the aforesaid C. B. in the indictment aforesaid above mentioned, but not of feloniously, wilfully, and of his malice aforethought, killing and murdering the said C. D. as is specified in the indictment aforesaid above mentioned. And that he the said A. B. at the time of committing the felony and manslaughter aforesaid, or at any time since, had no goods or chattels, lands or tenements, to the knowledge of the said jurors; and hereupon the said A. B. is asked by the court here, whether he can say any thing for himself, why the court here should not proceed to judgment and execution thereof upon the verdict aforesaid, which A. B. prayeth that the benefit of the statute in such case made and provided may be allowed him in this behalf, and it is allowed him in this* behalf. Whereupon all and singular the premises being seen and fully understood by the court here, it is considered by the court here that the aforesaid A. B. be burnt on his left hand, according to the form of the statute in such case made and provided, and be delivered, &c.

Ancient form of judgment for manslaughter, when defendant might be burnt in hand. (t)

[* 368]

Blencowe.

(q) Ante 1 vol. 703. 3 Inst. 211.

words of sentence to prisoner. 6 Harg. St. Tr. 834. Lord have mercy, &c.

(r) 10 Harg. St. Tr. 516. Ante 1 vol. 704. See a judgment for provoking to fight, 3 East, 481.

(t) Ante 1 vol. from Mr. Nicholl's MS. See also 4 Bla. Com. Appendix.

(s) Ante 1 vol. 704. The

Verdict not
guilty of
murder, guilt
of man-
slaughter. (u)

Clergy pray-
ed judg-
ment, to be
burned in the
hand and to
be delivered.

Judgment
for felony in
general. (x)

Judgment for
misprision of
treason. (y)

Judgment of
præmunire
when defend-
ant is in pri-
son. (z)

The like
when the de-
fendant is not
in prison.

Judgment of
præmunire
on confession
of indict-
ment for re-
fusing to
take the oath
of allegiance.
(a)

[* 369]

Upon their oath say, that the said Peter Hunt is not guilty of the murder aforesaid above charged upon him, but that the said Peter Hunt is guilty of the felonious slaying of the aforesaid Samuel Collins, and that he had not nor hath any goods or chattels, lands or tenements, at the time of the felony and manslaughter aforesaid, or ever afterwards to this time, to the knowledge of the said jurors. And immediately it is demanded of the said Peter Hunt, if he hath or knoweth any thing to say, wherefore the said justices here ought not, upon the premises and verdict aforesaid, to proceed to judgment and execution against him: who saith, that he is a clerk, and prayeth the benefit of the clergy to be allowed in this behalf. Whereupon all and singular the premises being seen, and by the said justices here fully understood, it is considered by the court here, that the said Peter Hunt be burned in his left hand and delivered; and immediately he is burned in his left hand, and is delivered according to the form of the statute.

That you, the said C. D. be hanged by the neck until you be dead.

That the said C. D. forfeit all his goods and the profits of his lands during his life, and be imprisoned during life.

[*If the defendant be in prison.*] That the said R. be out of the protection of our said lord the king, and that he forfeit his lands and tenements, goods and chattels, to our lord the king; and that his body remain in prison at the king's pleasure.

[*If the defendant be not in prison, the form runs thus:*] That the said R. be out of the protection of our lord the king, and that he forfeit his lands and tenements, goods and chattels, to our lord the king, and that he be taken.

And upon this ———, attorney-general of our lord the now king, who for our said lord the king, in this behalf, prosecutes for our* said lord the king, prays that judgment against the said C. D. may be thereupon given upon his own confession by the court here, upon which all and singular the premises being seen and by the court here understood, it is considered that the said C. D. be put out of protection of our lord the king, and that all the goods and chattels, lands and tenements, of the said C. D. be forfeited to our lord the king; and the said C. D. is committed to the aforesaid marshal during the pleasure of our lord the king, &c.

(u) App. 4, Blackstone.

(v) Ante 1 vol. 705. Co. Ent. 60, 352, &c.

(y) Ante 1 vol. 706. 3 Inst. 218. Qy. form, Dalt. J. c. 141, p. 335.

(z) 3 Inst. 218. Hawk. b. 2.

ch. 48. s. 9. Rast. Ent. 465. Co. Lit. 129. 22 Ed. 3. c. 23. 25 Edw. 3. 27 Ed. 3. c. 1. 16 R. 2. c. 5.

Ante 1 vol. 705.

(a) Co. Ent. 485. Ante 1 vol. 705.

The jury for the king do find, that C. D. and E. F. are guilty of refusing to take the oath of allegiance, for which you do incur a præmunire, which is the forfeiture of all your real estates during life, and your personal estates for ever, and you to be out of the king's protection, and to be imprisoned during his pleasure, and this is your sentence.

Judgment of præmunire. (b)

Judgment is given, that the said C. D. lose his right hand, and that it be cut off, and he is committed to the Tower of London, there to remain as long as he shall live; but let the judgment as to the cutting off the hand be respited until, &c.

Judgment against defendant for assaulting the marshal of K. B. (c)

That the said C. D. do forfeit all his goods and the profits of his lands, and suffer imprisonment during life.

Judgment for rescue in superior court. (d)

That each of you for your offence lose and forfeit 20*l.* and be imprisoned in Newgate by the space of six months without bail or mainprize, and that your oath be from thenceforth not received in any court of record within England or Wales, or the marches of the same, until such time as this judgment shall be reversed by attain or otherwise; and that after the expiration of the said six months you be transported to such place beyond the seas as his majesty, with the advice of his privy council, shall think fit to direct and appoint, for the term of six years.

For perjury at election. (e)

That you be remanded to the prison of this court for one month, be set twice in and upon the pillory for an hour each time, once at Charing Cross, and again at the Royal Exchange; that you be imprisoned in the prison of this court for two years, from the end of the said month; that you pay a fine of 50*l.* to the king; that you find security for your good behaviour for three years, yourself in 40*l.* and each security in 20*l.* and be committed until, &c.

Modern judgment for conspiracy. (f)

That you shall lose the freedom and franchise of the law, whereby you* are disabled to be put upon any jury, or to be sworn as a witness, or even to appear in person in any of the king's courts; and also that your houses, lands, and goods shall be seised into the king's hands, and your houses and lands estreped and wasted, your trees rooted up and rased, and your bodies imprisoned.

[* 370] Ancient from of judgment for conspiracy. (g)

That you do pay a fine to the king of 200*l.* that you be imprisoned for the space of twelve months, and until that fine be paid, and that upon the determination of your imprisonment

Judgment for a libel. (h)

(b) 2 Harg. St. Tr. 470. Co. 707.
 Lit. p. 129. Ante 1 vol. 705. (f) 2 Burr. 1027. Ante 1 vol.
 (c) 2 Rol. Ab. 76. Ante 1 vol. 709.
 706, 7. 1 East. P. C. 409, 500. (g) 3 Inst. 143. Ante 1 vol.
 (d) 8 Inst. 141. Ante 1 vol. 708.
 707. (h) 11 Harg. St. Tr. 294. 21
 (e) 6 East. 328. Ante 1 vol. Cob. St. Tr. 788.

you do find sureties for your good behaviour for three years, yourself in 400*l.* and two sureties in 200*l.* each.

Judgment of transportation for seven years, for grand larceny, after prayer of benefit of clergy. (i)

Upon their oath say, that the aforesaid J. T. is guilty of the felony aforesaid in the indictment aforesaid above specified, and charged against him, and that he had not at the time of committing the felony aforesaid, or at any time since any goods or chattels, lands or tenements, to the knowledge of the said last mentioned jurors. Whereupon it is demanded of the said J. T. by the court here what he hath to say for himself why the court here should not proceed to judgment and execution thereof upon the verdict aforesaid. And thereupon the said J. T. prayeth that the benefit of the statute in such case made and provided may be allowed him in this behalf, and it is allowed to him accordingly. Whereupon all and singular the premises being seen and fully understood by the court here, it is considered by the court here that the said J. T. be transported immediately, or as soon as conveniently may be, beyond the seas for the term of seven years, to be computed from the time of his conviction above specified. Blencowe.

Judgment of transportation. (k)

That you be transported to — for the space of seven years, and be now remanded to the custody of the marshal, to be by him kept in safe custody in execution of the judgment aforesaid, and until you shall be transported as aforesaid.

Judgment for petit larceny, whipping. (l)

Upon their oath say that the said I. Hurst and A. Goddard are, and each of them is guilty of stealing goods in the indictment aforesaid above specified of the value of sixpence and no more. And that they or either of them have not, nor hath any goods or chattels to their knowledge. Whereupon it is demanded of the said I. H. and A. G. severally, what each of them hath to say for himself why the court should not now here proceed to judgment against them upon the verdict aforesaid, who say* nothing. Whereupon it is considered by the court here, that they, the said I. H. and A. G. for the petit larceny aforesaid, whereof they stand convicted as aforesaid, be each of them publicly whipped and afterwards discharged. Blencowe.

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Judgment for concealing naval stores—imprisonment

That you be imprisoned in the house of correction for the county of Surrey for three calendar months, and be once during that time publicly whipped.

in house of correction, and whipping. (m)

Ancient judgment, branding in the hand and

Upon their oath say, that the aforesaid S. S. is guilty of the felony aforesaid in the indictment aforesaid above specified and charged against him; and that he at the time of

(i) From Mr. Nicholl's MS. Ante 1 vol.

(k) 3 Burr. 1901.

(l) Ante 1 vol. From Mr. Nicholl's MS.

(m) 8 East. 54.

committing the felony aforesaid, or at any time since, had imprisonment. (n)
 no goods or chattels, lands, or tenements, to the knowledge
 of the said last mentioned jurors. Whereupon it is de-
 manded of the said S. S. by the court here, what he hath to
 say for himself why the court here should not now proceed
 to judgment and execution thereof upon the verdict afore-
 said, and thereupon the said S. S. prays that the benefit of
 the statute in such case made and provided may be allowed
 to him in this behalf; and it is allowed to him accordingly.
 Whereupon all and singular the premises being seen and
 fully understood by the court here, it is considered by the
 court here that he, the said S. S. be branded in the left hand,
 and for further correction, be continued in the gaol of our
 said lord the king for the said county of L. until the twenty-
 ninth day of September, then next ensuing, and then to be
 discharged from imprisonment. Blencowe.

It is considered by the court here that the aforesaid A. B. Remittance
 be burnt in his left hand according to the form of the statute of part of
 in such case made and provided and be delivered, &c. judgment. (o)

Blencowe.

And thereupon it is considered by the court here that the Judgment on
 said C. D. be imprisoned in his majesty's gaol in the castle 15 Geo II. c.
 of Lancaster aforesaid, for and during the term of twelve 28 s. 3, for
 months, and that at the expiration of that time he shall find uttering on
 sureties for his good behaviour for two years. same day,
 several coun-
 terfeit shillings. (p)

And the said C. D. was thereupon convicted, and prayed Judgment for
 that the benefit of the statute in such case made and provided coining (q)
 might be allowed to him, the said C. D. and the same was
 allowed to him accordingly,* and it was considered and ad- [* 372]
 judged by the said court that the said C. D. be branded in
 the hand, and imprisoned in the said gaol of our said lord
 the king of Newgate for the space of one year.

And thereupon it is considered by the court here, that the Judgment for
 said A. B. shall be imprisoned in his majesty's gaol in the uttering base
 castle of Lancaster, for and during the term of twelve money twice
 months, and that at the expiration of that time he shall find in one day,
 sureties for his good behaviour for two years. on 15 Geo. II.
 c 28. (r)

Therefore it is considered by the said court here, that the Judgment at
 said C. D. shall be committed into the custody of the keeper sessions, of
 of his majesty's gaol, the castle of Lancaster, for the space imprisonment for a
 of twelve months. year, on con-
 viction of receiving stolen goods. (s)

That you be imprisoned in the custody of the marshal for Judgment of
 the space of — months now next ensuing. imprison-
 ment.

(n) From Mr. Nicholl's MS.

(q) Cro. Car. Ass. 123. Leach,

(o) From Mr. Nicholl's Prece-

404.

dents.

(r) 2 Stark. 537.

(p) 2 Leach, 856, 7, 940.

(s) Hand. Prac. 464.

Starkie, 537.

Crim. Law.

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Y y

Judgment on an information for a misdemeanour, fine and imprisonment as to some counts on one defendant, and on other counts as to another defendant, imprisonment and all defendants to pay value of bribe received. (t)

Monday next, after three weeks of Easter, 44 Geo. III. Rex, v. Stevens and another.

The defendants being brought here into court, &c. and being by a jury of the country convicted of certain extortions and misdemeanours charged upon them by the fifth, sixth, ninth, seventieth, and seventy-first counts of the information in this prosecution upon mature deliberation, had here in court, it is considered and adjudged that the defendant James Stevens, for his offences aforesaid, do pay a fine to our sovereign lord the king of 5000*l.* of lawful money of Great Britain, and that he, the said James Stevens, be imprisoned in the custody of the said marshal for the term of two years, now next ensuing, and that the defendant, John Agnew, for his offence aforesaid, be imprisoned in the custody of the said marshal for the term of two years, now next ensuing, and that the said defendants, for the extortions and misdemeanours charged upon them by the said fifth count, do forfeit to our said lord the king the sum of 10,625*l.* of lawful money of Great Britain, being the full value of the gift and present received by them, as in the said fifth count mentioned. And they, the said defendants, are now re-committed to the custody of the said marshal, to be by him kept in safe custody in execution of the said judgment, and until they shall have paid the said forfeiture. And the said James Stevens until he shall have also paid the said fine, and it is ordered that the whole of the said fine, and also the sum of 9,385*l.* part of the said forfeiture to be paid to the united company* of merchants trading to the East Indies, being the prosecutors in this prosecution.

Judgment at sessions, on conviction of keeping a disorderly house, fine and imprisonment six months in house of correction, and hard labour.

It is considered by the court here, that the said C. D. for the trespass and offence aforesaid, in the indictment aforesaid specified, be taken, &c. which said C. D. being present here is fined for the said trespass and offence three shillings and four-pence, which be paid to the sheriff of the said county of Middlesex in court here, to the use of our said lord the king. And the said C. D. is committed to the house of correction at Clerkenwell, in the said county of Middlesex, there to remain and be kept to hard labour for the space of six calendar months.

Judgment, fine and imprisonment. (u)

And upon this a day is given by the court to the said C. D. and E. F. and G. H. before our lord the king, where-soever, &c. until Wednesday next after eight days of the Purification of the blessed virgin Mary, to —, to the information aforesaid, and then to answer, at his peril. At which day, before our lord the king at Westminster, come as well the said R. H. who prosecutes, &c. as the said C. D. E. F. and G. H. in their proper persons. And the said C. D. E. F. and G. H. although often admonished, and solemnly called and required to answer, say nothing in bar

(t) 3 Smith, Rep. 367.

(u) See Trem. P. C. 302.

or preclusion of the information aforesaid, whereby our said lord the king remains against them undefended. Therefore it is considered that the said C. D. E. F. and G. H. be taken to satisfy our lord the king of his fines on occasion of the transgressions and contempts aforesaid; and that their bodies be imprisoned at the will of the said lord the king, and that, before they be discharged, each of them find sufficient securities for his good behaviour towards our lord the king and all his people, and that the said C. D. be committed to the lieutenant of the tower of our said lord the king, of London, for safe custody, until, &c.; and that the said E. F. and G. H. be committed to the marshal of the marshalsea of our lord the king, before the king himself, to be safely kept until, &c.

And that the fine of the said C. D. be affected by the court on the occasion aforesaid, at 2000*l*.

And that the fine of the said E. F. be affected by the court on the occasion aforesaid, at 500*l*.

And that the fine of the said G. H. be affected by the court at 1000 marks.

That you pay a fine to our sovereign lord the king of ——— *l*. Judgment of
of lawful money of Great Britain, and that you be now re- *fine*.
manded to the custody of the marshal, to be by him kept in safe
custody, in* execution of the judgment aforesaid, and until [* 374]
you shall have paid the said fine.

It is considered by the court that the said C. D. do pay Judgment at
to our said lord the king 12*d*. for his fine set upon him by sessions of a
the court here, by reason of the trespass and assault whereof shilling fine,
he is convicted, and that he be taken, &c. on conviction
of an as-
sault.

And the jurors do say, upon their oath, that the aforesaid Judgment at
C. D. is guilty of the nuisance and misdemeanour in the in- sessions of
dictment aforesaid above specified, in manner and form as fine for not
by the said indictment is alleged. Whereupon it is considered repairing a
ed by the court here that the said C. D. (being now present bridge.
here in court) for the nuisance and offence aforesaid in the
said indictment above specified, is fined one hundred pounds,
to be paid to the sheriff of the said county of Norfolk, in
court here, to the use of our said lord the king.

That you be remanded to the prison of ——— for one month, Judgment of
and be set in and upon the pillory for an hour, between the pillory.
hours of twelve and two.

Thursday next after the morrow of the Purification of the Rule and
blessed virgin Mary, in the 47th year of king George the judgment of
third. K. B. on an
indictment

Middlesex. } The defendant being brought here into
The King } court, in custody of the keeper of his majesty's
against } gaol of Newgate, by virtue of a rule of this
C. D. } court, and being by a jury of the country con-
victed of certain misdemeanours in publishing certain ob-
prisoned in

Newgate 10
calendar
months. be
put in the
pillory, and
do find secu-
rity for his
good behavi-
our.

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scene libels, whereof he is indicted: Upon hearing counsel on both sides, it is adjudged and ordered that he the said defendant, for his offences aforesaid, be imprisoned in the said gaol of Newgate for the term of ten calendar months now next ensuing, and that within that time (to wit) on Friday the 13th day of February, 1807, he the said defendant to be set in and upon the pillory for the space of one hour, between the hours of twelve at noon and two of the clock in the afternoon of the same day, in the public street between Charing cross and Whitehall, opposite to Scotland-yard, in the county of Middlesex. And that the sheriff of the said county do prepare the pillory, and execute this part of the judgment. And that said defendant do give security by his own recognizance in the sum of one hundred pounds for his good behaviour for the term of seven years, to be computed from and after the end and expiration of aforesaid ten calendar months. And he the said defendant is now committed to the custody of the keeper of the said gaol of Newgate, to be by him kept in safe custody, in execution of this judgment,* and until he shall have given such security as aforesaid.

Mr. G—— for the prosecution.

Mr. L—— for the defendant.

By the court.

Judgment in
K. B. for a
libel, fine,
imprison-
ment, and
security for
good beha-
viour. (x)

On the information for the North Briton, No. 45, a fine of 500*l.* and imprisonment for ten calendar months, and till the fine be paid. On the other information, 500*l.* fine, and imprisonment for twelve calendar months after the expiration of the other ten; and to find security for his good behaviour for seven years, himself in 1000*l.* and two sureties in 500*l.* each, and to be remanded till the fine should be paid and such security given.

Similar
judgment in
K. B. for a
libel. (y)

Saturday next after fifteen days from the day of the holy Trinity, in the eighth year of king George the third.

The defendant being brought here into court, in custody of the marshal of the marshalsea of this court, by virtue of a rule of this court, and being convicted of certain trespasses, contempts, and grand misdemeanours, in printing and publishing a seditious and scandalous libel, intituled "The North Briton, No. 45," whereof he is impeached, it is ordered that he, the said defendant, for his offences aforesaid, do pay a fine to our sovereign lord the king of five hundred pounds, of lawful money of Great Britain; and it is further ordered, that he, the said defendant, be imprisoned in the custody of the said marshal, for the space of ten calendar months now next ensuing. And it is lastly ordered that the said defendant be now remanded to the custody of

(x) Ante 1 vol. 718. 1 Leach,
536. 4 Burr. 2577, 8, 2574.

(y) 4 Burr. 2575.

the said marshal, to be by him kept in safe custody, in execution of the judgment aforesaid, and until he shall have paid the said fine.

On the motion of Mr. ———.

By the court.

Ordered. That at the expiration of the imprisonment of the defendant, by virtue of the judgment of this court pronounced against him in this cause, on Saturday next after 15 days from the day of the holy Trinity, in the eighth year of the reign of his present majesty, the security required by the said judgment to be given by him the said defendant for his good behaviour for the space of seven years, to wit, himself the said defendant in the sum of 1000*l.* with two sufficient sureties in 500*l.* each may be taken by and before any justice of the peace of and for the county of Surrey.

That* the said ———, for the trespasses, contempts, and nuisances whereof they were indicted and convicted as aforesaid, should pay a fine of 350*l.* and that the said fine should be levied and paid into the hands of the treasurer of the said county, to be applied pursuant to the direction of the statute in such case made and provided.

By consent of counsel on both sides, it is ordered that upon the defendant Ward's undertaking that neither he nor any other person by his consent or direction, or for his use or benefit, shall for the future make or cause to be made in the works lately carried on by the defendant White, at Twickenham, mentioned in the indictment in this cause, any acid, spirit of sulphur, or preparations of vitriol, or oil of aqua fortis, a fine of 6*s.* 8*d.* be set upon the said defendant Ward, for the nuisance of which he has been convicted.

JUDGMENTS FOR THE DEFENDANT.

Upon their oath, say that the said David Ogleby is not guilty of the premises aforesaid, in the indictment aforesaid above specified, in manner and form as the said D. Ogleby for himself above by his plea hath alledged, nor did he withdraw himself on that occasion. Upon which it is considered by the court here, that the said D. Ogleby, of the premises aforesaid, in the indictment aforesaid above specified, be discharged, and do go thereof without day.

Blencowe.

Whereupon all and singular the premises being seen and fully understood by the court of our said lord the king now

Judgment of acquittal on verdict for defendant. (c)
Judgment of acquittal in K. B. (d)

(z) 4 Burr. 2578. Ante 1 vol 716.

(c) From Mr. Nicholl's MS.

(a) 3 B. and P. 356. Ante 1 vol. 719.

(d) Ante 1 vol. 719. 11 East.

(b) 1 Burr. Rep. 338. Ante 1 Rep. 511.

Entry of judgment for defendant on plea of pardon. (e)

Entry of judgment for defendant on special verdict on indictment for murder.

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here, it is considered and adjudged by the said court now here, that the said Mary Woodford do depart hence without day, in this behalf.

Upon which all and singular the premises being seen, and by the court here understood, it is considered that the said C. D. go thereof without day, &c.

Upon which, all and singular the premises being seen and understood by the court here, for that it seems to the court here, upon the whole matter, by the verdict aforesaid, in form aforesaid found, that the said poisoning by taking of cantharides, and the* said procurement of the said William to procure the said Nicholas to take the said cantharides in manner and form as by the said verdict hath been found, was not felony and wilful murder, therefore it is considered that the said William Vaux, of the felony, &c. go without day.

RECORDS OF JUDGMENTS.

Record of judgment at general quarter sessions for Lancashire, of imprisonment of defendant convicted of a misdemeanour, in receiving stolen goods. (f)

Lancashire, to wit. Be it remembered, that at the general quarter session of the peace of our said lord the king, holden at L. in and for the county of palatine of L. on Tuesday, to wit, on the 9th day of January, in the 38th year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain and Ireland king, defender of the faith, and so forth, before T. B. and E. R. esquires, and others their companions then and there present, justices of our said lord the king assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, that same general quarter session of the peace of our said lord the king is adjourned by the aforesaid justices of our said lord the king in that court being until Thursday, to wit, the eleventh day of the same month of January, in the thirty-eighth year aforesaid, to be holden at P. in A. in and for the said county; at which session of the peace of our said lord the king, holden by the said adjournment at P. in A. aforesaid, in and for the said county, the said eleventh day of January, in the thirty-eighth year before named, before J. B. clerk, and R. A. esquire, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to

(e) Trem. 313. Ante 1 vol. 720. As to form of caption of sessions of peace, Cro. C. C. 8th Ed. 31. and ante.

(f) Hand's Prac. 464. As to requisites of record, ante 1 vol.

hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, that same general quarter session of the peace of our said lord the king is further adjourned by the last mentioned justices of our said lord the king in that court being, until Monday, to wit, the 15th day of the same month of January, in the thirty-eighth year aforesaid, to be holden at W. in and for the said county. At which session of the peace of our said lord the king, holden by the said adjournment at W. aforesaid, in and for the said county, the said 15th of January, in the thirty-eighth year above said, before W. H. and T. L. and others their companions, then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies,* trespasses, [* 378]

and other misdemeanours in the said county perpetrated; that same general quarter session of the peace of our said lord the king is further adjourned by the same last mentioned justices of our said lord the king, in that court being, until Wednesday, to wit, the 17th day of the same month of January, in the thirty-eighth year aforesaid, to be holden at the New Bailey court-house within S. in and for the said county. At which session of the peace of our said lord the king, holden by the said adjournment at the New Bailey court-house, within S. in and for the said county, the said 17th day of January, in the thirty-eighth year of the reign above said, before T. B. B. and P. D. esquires, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, upon the oaths of C. W. of C. T. H. of A. O. O. of the same place, J. B. of S. J. M. of the same place, gentleman, [*stating the names and additions of all the grand jury*] good and lawful men of the county of L. aforesaid, then and there sworn and charged to enquire for our said lord the king, and for the body of the said county, it is presented in manner and form as followeth, that is to say: Lancashire, to wit, the jurors for our lord the king, upon their oath present, that A. S. late of the parish of B. in the county of L. labourer [*here copy indictment for receiving stolen goods*]. Whereupon the sheriff of the said county is commanded to apprehend and take the body of the said A. S. and thereupon, at the same general quarter session of the peace, held by the said last mentioned adjournment at the New Bailey court-house, within S. aforesaid, in and for the said county, the said seventeenth day of January, in the thirty-eighth year above said, before the said justices of our said lord the king above named, cometh the said A. S. in his proper person, and having had hearing of the said indictment aforesaid, was instantly to speak to this court how he would acquit himself of the premises aforesaid, in the indictment.

Award of
process
against de-
fendant.

Appearance
of defendant
at adjourned
sessions, and
plea of not

guilty, and
similiter.

Award of
venire of ju-
rors.

[* 379]

Adjourn-
ment of ses-
sions.

Further ad-
journment of
sessions.

ment aforesaid, above charged and imposed on him, who saith, that he is not guilty of the misdemeanours aforesaid, in the indictment aforesaid, above alledged against him, and therefore of the good and evil thereof doth put himself upon the country, and E. L. esquire, attorney-general for our said lord the king, of and for the county of palatine of L. aforesaid, who for our said lord the king here in this behalf doth follow for our lord the king, doth so likewise. Therefore it is commanded, that the sheriff of the county palatine of L. aforesaid, omit not by reason of any liberty* within his bailiwick, to cause to come before the justices of our said lord the king, assigned to keep the peace of our said lord the king in the county of L. and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, at the general quarter session of the peace to be holden in and for the said county of L. by adjournment, at the New Bailey courthouse, within S. aforesaid, in and for the said county, on Wednesday the twenty-fifth day of April, in the thirty-eighth year of the reign aforesaid, twelve good and lawful men of the vicinage of B. in the said county, every one of whom to have ten pounds a-year at least in lands, tenements, or rents, by whom the truth of the matter may be better known, and who are in no wise related to the said A. S. to make a certain jury of the country between the said lord the king and the said A. S. between whom the contention is, have put themselves on this account upon the said jury, the same day is given as well to the said E. L. esquire, attorney-general aforesaid, who prosecutes for our said lord the king in this behalf, as to the said A. S. at which general quarter session of the peace of our said lord the king, holden at L. in and for the said county palatine of L. on Tuesday, to wit, the seventeenth day of April, in the thirty-eighth year of the reign aforesaid, before T. B. and E. R. esquires, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated; that same general quarter session of the peace of our said lord the king is adjourned by the aforesaid justices of our said lord the king in that court being, until Thursday, to wit, the nineteenth day of April, in the thirty-eighth year of the reign above said, to be holden at P. in A. in and for the said county (g); at which session of the peace of our said lord the king, holden by the said adjournment at P. in A. aforesaid, in and for the said county, the said nineteenth day of

(g) Quære, if there ought not and defendant.
to be a day given for prosecutor

April, in the thirty-eighth year of the reign above said, before J. B. clerk, and R. A. esquire, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated; that same general quarter session of the peace of our said lord the king is further adjourned by the same last* mentioned justices of our said lord the king in that court being, until Monday, to wit, the twenty-third day of the same month of April, in the thirty-eighth year of the reign above said, to be holden at O. in and for the said county; at which session of the peace of our said lord the king, holden by the said adjournment at O. aforesaid, in said county, the said twenty-third day of April, in the thirty-eighth year of the reign above said before R. M. doctor of divinity, and W. H. esquire, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated; that same general quarter session of the peace of our said lord the king is further adjourned by the same last-mentioned justices of our said lord the king in that court being, until Wednesday, to wit, the twenty-fifth day of the same month of April, in the thirty-eighth year of the reign above said, to be holden at the New Bailey court-house within S. in and for the said county; at which session of the peace of our said lord the king, holden by the said adjournment at the New Bailey court-house, within S. aforesaid, in and for the said county, the said twenty-fifth day of April, in the thirty-eighth year of the reign above said, before T. B. B. and J. P. esquires, and others their companions then and there present, justices of our said lord the king, assigned to keep the peace of our said lord the king, as also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county perpetrated, come as well the said E. L. esquire, attorney-general aforesaid, who prosecutes for our lord the king in this behalf, as the said A. S. in his proper person, and the jurors of that jury by J. E. esquire, sheriff of the said county of L. on this behalf impannelled and returned, to wit, W. R. of L. B. J. L. of the same place, &c. being called, come, who being chosen, tried, and sworn, and speak the truth of and upon the premises in the indictment aforesaid above specified, do say upon their oaths, that the said A. S. is guilty of the misdemeanour aforesaid, in the said indictment above specified, as according to the form and effect of the said indictment is supposed to be; therefore it is considered by the court here, that the said A. S. shall be committed into the custody of the keeper

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Further adjournment of sessions.

Trial and conviction of defendant at adjourned sessions.

Verdict.

Judgment.

Record of
judgment on
acquittal, on
an indict-
ment for
forcible en-
try, prefer-
red at the
general quar-
ter sessions
for county.

(h)

[* 381]

Award of
process.

Appearance
and plea of
not guilty.

Award of ve-
nire.

of his majesty's gaol, the castle of L. for the space of twelve months.

Taylor, deputy clerk.

Monmouthshire, to wit, Be it remembered, that at the general quarter sessions of the peace of our said lord the king, holden at the town of Abergavenny, in and for the said county of M. on Wednesday the 10th day of January, in the 27th year of* the reign of our sovereign lord George the third, by the grace of God, of Great Britain and Ireland king, defender of the faith, &c. before John H. Williams, &c. esquires, and others, justices of our said lord the king, assigned to keep the peace in the county of Monmouth aforesaid, and also assigned to hear and determine divers felonies, trespasses, and other misdemeanours, committed and done in the said county, upon the oath of William Lewis, &c. [*name all the grand jury,*] good and lawful men of the county aforesaid, then and there sworn and charged to enquire for our said lord the king for the body of the said county, it is presented in manner and form as followeth, that is to say, Monmouthshire, to wit: the jurors of our lord the king upon their oath present, that George W. late of, &c. on, &c. [*here was inserted indictment for a forcible entry:*] whereupon the sheriff of the said county of M. is commanded, that he omit not, for any liberty within his bailiwick, but cause the said E. W. R. to come and answer; and afterwards, to wit, at the same general quarter sessions of the peace of our said lord the king, holden for the county aforesaid, at A. aforesaid, on the said tenth of January, in the year aforesaid, before the aforesaid justices of our said lord the king, and others their fellows aforesaid, cometh the said E. W. R. in his own proper person, and having heard the said indictment read, the said E. W. R. saith, that he is not guilty thereof, and of this he puts himself upon the country, &c. and A. Morgan, clerk of the peace for the county aforesaid, (i), who prosecuteth for our said lord the king in this behalf, doth the like; therefore let a jury thereupon come before the justices of our said lord the king, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, at the next general quarter sessions of the peace, to be holden at the town of ———, in and for the said county of M. by whom the truth of the matter may be better known, and who have no affinity to the said E. W. R. to recognize upon their oath whether the said E. W. R. be guilty of the premises aforesaid or not, because as well the said A. Morgan, who prosecutes for our said lord the king in this behalf as the said E.

(h) 4 Went. 148. said to be settled by Mr. Graham. As to the record, see ante 1 vol, 720.

(i) Some of the precedents do not state the character, nor is it necessary.

W. R. have put themselves upon that jury, the same day is given as well to the said A. Morgan, who prosecutes for our said lord the king in this behalf, as to the said E. W. R. at which said next general quarter sessions of the peace, holden at the town of ——— aforesaid, in and for the said county of M. on Wednesday the eighteenth day of ^{Trial and ac-} April, in the twenty-seventh year of the* reign aforesaid, ^{quittal.} and in the said year of our Lord 1787, before R. S. &c. &c. [* 382] esquires, and others their fellows, justices of our said lord the king, assigned to keep the peace in and for the county of M. aforesaid, and also assigned, &c. [*as before,*] cometh as well the said A. Morgan, who prosecuteth for our said lord the king in this behalf, as the said E. W. R. in his own proper person: and the said jurors of the said jury, by ———, esquire, sheriff of the said county of M. for this purpose impannelled and returned, to wit, [*name the petit jury*] being called, likewise come, who being chosen, tried, and sworn to speak the truth of and upon the premises in the indictment aforesaid above specified, do say, upon their oath, that* the said E. W. R. is not guilty of the premises aforesaid, in the said indictment above specified, as the said E. W. R. for himself above by his plea hath alledged; ^{Judgment of} whereupon it is considered by the court here, that the said ^{acquittal.} E. W. R. of the premises aforesaid, in the indictment aforesaid above specified, be discharged, and go thereof without day.

[*Same as last to *.*] That the aforesaid J. L. R. M. and ^{The like} T. L. are guilty, and every of them is guilty of the trespass, ^{where defen-} contempt, and riot aforesaid, in the indictment aforesaid ^{dant convict-} above specified, in manner and form as against them is ^{ed, and a fine} imposed. (*k*) ^{imposed.} above supposed. Therefore it is considered by the court ^{Judgment.} that the aforesaid J. L. R. M. and T. L. be taken to satisfy our lord the king of their fines by occasion of the trespass, contempt, and riot aforesaid; which J. L. R. M. and ^{Process of} T. L. then and there present in court, prayed that they to a ^{execution.} fine with our said lord the king by the occasion aforesaid may be admitted; and therefore they put themselves severally upon the mercy of our lord the king. And the fine of the same J. L. by the justices aforesaid, is assessed at ^{Fine assess-} 3*l.* 6*s.* 8*d.* and the fine of the same R. M. is assessed at ^{ed.} 20*s.* and the fine of the same T. L. is assessed at 5*l.* of good and lawful money of Great Britain, to the use and behoof of our said lord the king.

Middlesex. Be it remembered, that at the general ^{Record at} quarter sessions of the peace of our lord the king holden ^{Westminster} for the county of Middlesex, at the Guildhall in King- ^{sessions of} ^{conviction}

(*k*) See Burn, J. Traverse and Sessions.

and fine of
one defend-
ant, and
judgment
upon him,
and acquittal
of another
on indict-
ment for as-
sault.

[* 383]

street, Westminster, in the said county, on the 18th of October, in the forty-third year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland king, defender of the faith, before William Mainwaring, &c. esquires, and others their fellows, justices of our said lord the king,* assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, that session of peace is adjourned by the aforesaid justices of our said lord the king above named, and others their fellows aforesaid here, until the 24th day of the same month of October, at the hour of ten in the forenoon of the same day, to be holden at the session-house on Clerkenwell-green, in and for the said county, and that at the same session of the peace being holden by adjournment aforesaid, in and for the said county, on the said 24th day of October, in the year aforesaid, before the said justices of our said lord the king above named, and others their fellows aforesaid, by the oath of J. B. &c. good and lawful men of the county of Middlesex, now here sworn and charged to enquire for our sovereign lord the king for the body of the said county, it is presented in manner and form following, that is to say,—Middlesex. The jurors for our lord the king upon their oath, present that J. N. &c. [*here copy indictment for assault*] wherefore the sheriff of the said county of Middlesex is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he cause them the said J. N. and W. C. to come before the justices of our said lord the king, assigned in form aforesaid, at the next general session of the peace to be holden for the said county to answer to our said lord the king touching and concerning the premises in the said indictment above specified. At which said next general session of the peace, to wit, the general session of the peace of our lord the king holden in and for the county of Middlesex, at the session-house for the said county on the 29th of November, in the forty-fourth year aforesaid, before William Mainwaring, &c. esquires, and others their fellows, justices of our said lord the king, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, come the said J. N. and W. C. in their own proper persons, and having heard the said indictment read severally, say, that they are not guilty thereof, and of this they and each of them put themselves upon the country, &c. and Henry Collingwood Selby, esquire, clerk of the peace of the county aforesaid, who prosecuteth for our said lord the king, in this behalf doth the like, &c. therefore, by the consent of the said J. N. and W. C. let the jury thereupon immediately come before the justices of our said lord the king above

named, and others their fellows aforesaid here, by whom the truth of the matter may be better known, and who have no affinity to the said J. N. and W. C. or either of them, to recognize* the matter upon their oaths whether they the said J. N. or W. C. or either of them are guilty of the premises in the indictment aforesaid above specified or not, because as well the said Henry Collingwood Selby, esquire, who prosecuteth for our said lord the king in this behalf, as the said J. N. and W. C. have put themselves upon that jury and the jurors of the jury aforesaid, impanelled and returned to this purpose by James Shaw, esquire, and Sir Wm. Leighton, knight, sheriffs of the county aforesaid, namely, Thomas Herbert, &c. being called, come, who being chosen, tried, and sworn to speak the truth of and upon the premises in the indictment aforesaid above specified, do say upon their oath, that the said J. N. is guilty of the trespass and assault in the said indictment specified in manner and form as by the said indictment is above supposed against him, upon which all and singular the premises being seen and fully understood by the court here, it is considered by the court here, that the said J. N. do pay to our said lord the king twelve-pence for his fine set upon him by the court here by reason of the trespass and assault whereof he is convicted, and that he be taken, &c. and the said J. N. being present here in court doth pay twelve-pence to the said sheriff to the use of our said lord the king and is discharged, &c. And the said jurors of the jury, upon their oath, do further say, that the said W. C. is not guilty of the trespass and assault in the indictment aforesaid, in manner and form as the said W. C. by his plea hath above alledged, upon which it is considered by the court here, that the said W. C. of the premises in the indictment aforesaid above specified be discharged, and go without day, &c. [* 384]

Record of acquittal for felony where the bill was found at a quarter session holden on Clerkenwell-green, in the county of Middlesex, and the parties being under recognition were tried at the Old Bailey.

Middlesex. Be it remembered, that at the general quarter session of the peace of our sovereign lord the king holden for the county of Middlesex, at the new session-house, on Clerkenwell-green, in the same county, on Monday the — day of —, in the — year of the reign of our sovereign lord George the third, now king of Great Britain, &c. before T. L., J. M., E. B. esquires, and others their fellows, justices of our said lord the king, to keep the peace of our said lord the king in and for the county aforesaid, and also to hear and determine divers* [* 385]

Record of acquittal where indictment for felony found at quarter session, Clerkenwell, Middlesex, and acquittal at Old Bailey. (1)

for the body of the said county, it is presented in manner and form as followeth, to wit, Middlesex. The jurors, &c. (here insert the indictment verbatim.) Whereupon the sheriff of the said county of Middlesex is commanded that he cause the said A. B. to come to answer, &c. And afterwards, to wit, at the same session of oyer and terminer of our said lord the king, holden at the new session-house on Clerkenwell-green aforesaid, in and for the said county of Middlesex by adjournment, on Wednesday, the — day of the same month of —, in the year aforesaid, before the justices of our said lord the king above named, and others their fellows aforesaid, cometh the said A. B. in his own proper person; and having heard the said indictment read, the said A. B. saith that he is not guilty thereof, and concerning thereof he putteth himself upon the country; and — Selby, esq. clerk of the peace for the county aforesaid, who prosecutes for our said lord the king in this behalf doth the like; therefore let a jury thereupon come before the justices of our said lord the king at the next session of oyer and terminer of our said lord the king to be holden at the new sessions-house on Clerkenwell-green aforesaid, in and for the said county of Middlesex, by whom the truth of the matter may be better known, and who have no affinity to the said A. B. to recognize upon their oath if the said A. B. be guilty of the premises aforesaid or not, because as well the said — Selby, who prosecutes for our said lord the king in this behalf, as the said A. B. have put themselves on that jury, the same day is given as well to the said — Selby, esq. who prosecutes for our said lord the king in this behalf, as to the said A. B. At which said next session of oyer and terminer, to wit, at the session of oyer and terminer of our said lord the king holden at the new sessions-house on Clerkenwell-green aforesaid, in and for the said county of Middlesex, on Monday, the — day of — in the said — year of the reign of our said lord the king, before W. M. esquire, Sir J. H. knt. W. H. and J. S. esquires, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain to the same justices last above named and others, and any four or more of them directed to enquire more fully the truth by the oath of good and lawful men of the said county of Middlesex, and by other ways, means, and methods by which they should or* might better know, as well within liberties as without, by whom the truth of the matter may be better known of all treasons, misprisions of treasons, insurrections, rebellions, counterfeitings, clippings, washings, false coinings, and other falsities of the money of Great Britain and other kingdoms or dominions whatsoever, and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings, conventicles, unlawful utter-

[* 388]

ing of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppression, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also of the accessories of them within the county aforesaid (as well within liberties as without) by whomsoever, and in what manner soever done, committed, or perpetrated, and by whom or to whom, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them, or any of them, in any manner whatsoever, and the said treasons, and other the premises, to hear and determine according to the laws and customs of England, cometh as well the said — Selby, who prosecutes for our said lord the king in this behalf as the said A. B. in his own proper person, and the jurors of that jury, by T. N. esquire, and I. B. esquire, sheriff of the said county of Middlesex, to this matter impanelled and returned, to wit, (the names of the petit jury) being called come, who being chosen, tried, and sworn to speak the truth of and upon the premises in the indictment aforesaid above specified, do say upon their oath,* that the said A. B. is guilty of the trespass and offence aforesaid in the indictment aforesaid above specified, in manner and form as by the said indictment above against him is alledged, whereupon it is considered by the court here that the said A. B. for the trespass and offence aforesaid in the indictment aforesaid above specified be taken, &c. which said A. B. being present, here is fined for the said trespass and offence three shillings and four-pence, which he paid to the sheriff of the said county of Middlesex in court here to the use of our said lord the king, and the said A. B. is committed to the house of correction at Clerkenwell, in the said county of Middlesex, there to remain and be kept to hard labour for the space of six calendar months.

(*Same as ante to the (*) and then proceed as follows.*) That the said A. B. is not guilty of the trespass and offence aforesaid, in the indictment aforesaid above specified, in manner and form as the said A. B. for himself above for his plea hath alledged, whereupon* it is considered by the court here [* 389] that the said A. B. of the trespass and offence aforesaid in the indictment aforesaid above specified be discharged and go thereof without day.

The like where defendant was acquitted. (n)

Warwickshire, } Be it remembered, that at the general Record of
to wit. } session of the lord the king of oyer and conviction,
terminer holden at Warwick, in and for the said county of and judgment for
Warwick, on Friday, the 12th day of March, in the second murder or
felony at assizes. (o)

(n) Cro. C. C. 8th Ed. 31. Ante 1 vol. 720. (o) 4 Bla. C. appendix 3.

The caption
of the as-
sizes.

Oyer and ter-
miner,

and of the
peace.

Grand jury.

[* §90]

Indictment.

year of the reign of the lord George the third, now king of Great Britain, before Sir Michael Forster, knight, one of the justices of the said lord the king, of his court of common bench, and others their fellows, justices of the said lord the king, assigned by letters patent of the said lord the king under his great seal of Great Britain, made to them, the aforesaid justices and others, and any two or more of them, (whereof one of them, the said Sir Michael Forster, and Sir Edward Clive, the said lord the king, would have to be one) to inquire (by the oath of good and lawful men of the county aforesaid, by whom the truth of the matter might be the better known, and by other ways, methods, and means, whereby they could or might the better know, as well within the liberties as without) more fully the truth of all treasons, misprisions of treasons, insurrections, rebellions, counterfeitings, clippings, washings, false coinings, and other falsities of the monies of Great Britain, and of other kingdoms or dominions whatsoever, and of all murders, felonies, man-slaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, unlawful assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other misdeeds, offences, and injuries whatsoever, and also the accessaries of the same within the county aforesaid, as well within liberties as without, by whomsoever, and howsoever done, had, perpetrated and committed; and by whom, to whom, when, how, and in what manner; and of all other articles and circumstances in the said letters patent of the said lord the king specified; the premises and every, or any of them, howsoever concerning, and for this time to hear and determine the said treasons and other premises, according to the laws and customs of the realm of England, and also keepers of the peace and justices of the said lord the king, assigned to hear and determine divers felonies, trespasses, and other misdemeanours committed within the county aforesaid, by the oath of Sir James Thomson, baronet, Charles Roper, Henry Daws, Peter Wilson, Samuel* Rogers, John Dawson, James Philips, John Mayo, Richard Savage, William Bell, James Morris, Laurence Hall, and Charles Carter, esquires, good and lawful men of the county aforesaid, then and there impanelled, sworn, and charged to inquire for the said lord the king, and for the body of the said county, it is presented that, Peter Hunt, late of the parish of Lighthorne, in the said county, gentleman, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the fifth day of March, in the said second year of the reign of the said lord the king, at the parish of Lighthorne aforesaid, with force and arms in and upon one Samuel Collins,

in the peace of God, and of the said lord the king, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault; and that the said Peter Hunt, with a certain drawn sword, made of iron and steel, of the value of five shillings, which he, the said Peter Hunt, in his right hand then and there had and held, him, the said Samuel Collins, in and upon the left side of the belly of him, the said Samuel Collins, then and there feloniously, wilfully, and of his malice aforethought, did strike, thrust, stab, and penetrate, giving unto the said Samuel Collins, then and there, with the sword drawn as aforesaid, in and upon the left side of the belly of him, the said Samuel Collins, one mortal wound of the breadth of one inch, and the depth of nine inches; of which said mortal wound, he, the said Samuel Collins, at the parish of Lighthorne, in the said county of Warwick, from the said fifth day of March, in the year aforesaid, until the seventh day of the same month in the same year, did languish, and languishing did live; on which said seventh day of March, in the year aforesaid, the said Samuel Collins, at the parish of Lighthorne aforesaid, in the county aforesaid, of the said mortal wound did die; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said Peter Hunt, him, the said Samuel Collins, in manner and form aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of the said lord the now king, his crown and dignity. Whereupon the sheriff of the county Aforesaid is commanded, that he omit not, for any liberty in his bailiwick, but that he take the said Peter Hunt, if he may be found in his bailiwick, and him safely keep, to answer to the felony and murder whereof he stands indicted. Which said indictment the said justices of the lord the king above named afterwards, to wit, at the delivery of the gaol of the said lord the king, holden at Warwick, in and for the county aforesaid, on Friday, the sixth day of August, in the said second year of the reign of the said lord the king, before the right honourable* William Lord Mansfield, chief justice of the said lord the king, assigned to hold pleas before the king himself, Sir Sydney Stafford Smythe, knight, one of the barons of the exchequer of the said lord the king, and others their fellows, justices of the said lord the king assigned to deliver his said gaol of the county aforesaid, of the prisoners herein being, by their proper hands, to deliver here in court of record in form of the law to be determined. And afterwards, to wit, at the same delivery of the gaol of the said lord the king, of his county aforesaid, on the said Friday, the sixth day of August, in the said second year of the reign of the said lord the king, before the said justices of the lord the king last above named, and others their fellows aforesaid, here cometh the said Peter Hunt, under the custody of

Award of ca-
pias.Session of
gaol delive-
ry.

[* 391]

Arraign-
ment.

Plea, not
guilty.

Issue.

Venire.

Verdict,
guilty.

[* 392]

Asking de-
fendant as
to judgment.

Judgment of
death.

William Browne, esquire, sheriff of the county aforesaid (in whose custody in the gaol of the county aforesaid, for the cause aforesaid, he had been before committed,) being brought to the bar here in his proper person, by the said sheriff, by whom he is here also committed; and forthwith being demanded concerning the premises in the said indictment above specified and charged upon him, how he will acquit himself thereof, he saith that he is not guilty thereof, and thereof for good and evil he puts himself upon the country; and John Blencowe, esq. clerk of the assizes for the county aforesaid, who prosecutes for the said lord the king in this behalf doth the like; therefore let a jury thereupon here immediately come before the said justices of the lord the king last above mentioned, and others their fellows aforesaid, of free and lawful men of the neighbourhood of the said parish of Lighthorne, in the county of Warwick aforesaid, by whom the truth of the matter may be the better known, and who are not of kin to the said Peter Hunt, to recognize upon their oath, whether the said Peter Hunt be guilty of the felony and murder in the indictment aforesaid above specified, or not guilty; because as well the said John Blencowe, who prosecutes for the said lord the king in this behalf, as the said Peter Hunt, have put themselves upon the said jury and the jurors of the said jury, by the sheriff for this purpose impannelled and returned, to wit, David Williams, Jno. Smith, Tho. Horne, Chas. Nokes, Richard May, Walter Duke, Matthew Lion, James White, Wm. Bates, Oliver Green, Bartholomew Nash, and Hy. Long, being called, come, who being elected, tried, and sworn to speak the truth of and concerning the premises, upon their oath say, that the said Peter Hunt is guilty of the felony and murder aforesaid, on him above charged in the form aforesaid, as by the indictment aforesaid is above supposed against him, and that the said Peter Hunt, at the time of committing the said felony and murder, or* at any time since to this time, had not nor hath any goods or chattels, lands or tenements, in the said county of Warwick, or elsewhere, to the knowledge of the said jurors. And upon this it is forthwith demanded of the said Peter Hunt, if he hath or knoweth any thing to say, wherefore the said justices here ought not upon the premises and verdict aforesaid to proceed to judgment and execution against him who nothing further saith, unless as he before had seen. Whereupon all and singular the premises being seen, and by the said justices here fully understood, It is considered by the court here, that the said Peter Hunt be taken to the gaol of the said lord the king, of the said county of W. from whence he came, and from thence to the place of execution on Monday now next ensuing, being the ninth of this instant August, and there he be hanged by the neck, until he be dead; and that afterwards his body be dissected and anatomised.

Northamptonshire. Be it remembered that, at the general sessions of oyer and terminer of our sovereign lord the king, holden at Northampton, in and for the county of Northampton, on Monday the 26th day of March, in the twenty-second year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c. Before the honourable Francis Buller, esquire, one of the justices of our said lord the king, Harley Vaughan, serjeant at law, and others their fellows, justices assigned to hold pleas before the king himself, George Hill, one of the serjeants at law of our said lord the king, Harley Vaughan, serjeant at law, and others their fellow justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to them and others, and any two or more of them made, of whom our said lord the king willed that the right honourable sir John Skinner, knight, chief baron of our said lord the king of his court of Exchequer, the said Francis Buller, George Hill, and Harley Vaughan, among others in the said letters patent named, should be one to enquire more fully the truth, by the oath of good and lawful men of the said county of Northampton, and by other ways, means, and methods, by which they should or might better know (as well within liberties as without) by whom the truth, of the matter may be better known and inquired into, of all treasons, misprisions of treasons, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain and all other kingdoms or dominions whatsoever, and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful* uttering of words, assemblies, misprisons, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also of the accessaries of them, within the said county of Northampton, (as well within liberties as without,) by whomsoever and in what manner soever done, committed, or perpetrated, and by whom or to whom, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every or any of them in any manner whatsoever, and the said treasons, and other the premises, according to the laws and customs of England for this time, to hear and determine, by the oath of sir George Robinson, baronet, John Robinson, &c. [*names of grand jury,*] esquires, good and lawful men of the said county of Northampton, then and there sworn and charged to inquire for our said

Caption,
Lent, 1792.
Record of
judgment for
defendants
on an indictment at oyer
and terminer
at assizes,
for not repairing high-
way. (p)

[* 393]

Venire.

[* 394]

Respite.

lord the king, for the body of the said county of Northampton, it is presented in manner and form as followeth, (that is to say,) Northampton, (to wit.) [*Copy indictment.*] Whereupon the sheriff of the said county of Northampton is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he cause the said inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, to come before the justices of our said lord the king, at the next general session of oyer and terminer of our said lord the king, to be holden for the said county of Northampton, to answer the premises aforesaid. At which said next general session of oyer and terminer of our said lord the king (to wit) at the general session of oyer and terminer of our said lord the king holden at Northampton, in and for the county of Northampton, on Monday the 8th day of July, in the 23d year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain and Ireland, king, defender of the faith, &c. before the right honourable Alexander, lord Loughborough, chief justice of our lord the king, of his court of common pleas, the honourable Edward Willes, esquire, one of the justices of our said lord the king, assigned to hold pleas before the king himself, George Hill, one of the serjeants at law of our said lord the king, Harley Vaughan, serjeant at law, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under the great seal of Great Britain, to them the justices last above named and others, and any two or more of them made, (of whom our said lord the king willed that the said Alexander, lord Loughborough, Edward Willes, George Hill, and Harley Vaughan, among others in the said* letters patent named should be one) to inquire more fully the truth (*through the commission*). And the sheriff of the said county of Northampton did not return the writ, nor did he do any thing thereon. And thereupon the sheriff is again commanded, that he do not omit, by reason of any liberty in his bailiwick, but that he cause the said inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, to come before the justices of our said lord the king at the next general session of oyer and terminer of our said lord the king, to be holden for the said county of Northampton, to answer the premises aforesaid. At which said next general session of oyer and terminer of our said lord the king, (to wit,) at the general session of oyer and terminer of our lord the king, holden at Northampton, in and for the county of Northampton, on Monday the 3d day of March, in the twenty-third year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain and Ireland, king, defender of the faith, &c. before the honourable sir Richard Perryn, knight, one of the barons of our lord the

king, of his court of exchequer, George Hill, one of the serjeants at law of our said lord the king, Harley Vaughan, serjeant at law, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under the great seal of Great Britain, to them the justices last above named, and others, and any two or more of them made (of whom our said lord the king willed that the right honourable sir John Skynner, knight, chief baron of our said lord the king of his said court of exchequer, the said sir Richard Perryn, knight, George Hill, and Harley Vaughan, among others in the said letters patent named, should be one) to inquire more fully the truth, (*the commission again,*) come Robert Billson and John Heskett, two of the inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, on behalf of themselves, and the rest of the inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, and having heard the said indictment read unto them, say that the inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, are not guilty of the premises above specified and charged upon them as above; and hereupon the said Robert Billson and John Heskett, on behalf of themselves, and the rest of the inhabitants of the said parish, put themselves upon the country. And John Blencowe, esquire, clerk of the crown, and clerk of the assizes for the said county of Northampton, who prosecuteth for our said lord the king, in this behalf,* by John Frederick Hilditch, gentleman, his deputy for this purpose lawfully instituted and appointed, likewise, &c. And thereupon the sheriff of the said county of Northampton is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he cause to come before the justices of our said lord the king, at the next general session of oyer and terminer of our said lord the king to be holden for the said county of Northampton, twelve good and lawful men of the neighbourhood of the parish of St. Giles, in the town of Northampton, in the said county of Northampton, by whom the truth of the matter may be better known, and who are of no affinity to the said Richard Billson or John Heskett, to recognize upon their oath whether the said inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, are guilty of the premises aforesaid, in the indictment aforesaid above specified and charged upon them or not, because, as well the said John Blencowe, esquire, who presenteth for our said lord the king on this behalf, by the said John Frederick Hilditch, his deputy, lawfully constituted as aforesaid, as the said Robert Billson and John Heskett on behalf of themselves, and the rest of the inhabitants of the said parish of St. Giles, in the town of North-

Appearance
of two inha-
bitants.

Plea.

Issue.

[* 395]

Venire ad
triumdum.

ampton, in the said county of Northampton, put themselves upon that jury, the same day is given to the said parties there, &c. At which said next general sessions of oyer and terminer of our said lord the king, to wit, at the general sessions of oyer and terminer of our said lord the king, holden at Northampton, in and for the county of Northampton, on Tuesday the 29th day of July, in the twenty-third year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France and Ireland king, defender of the faith, and before the honourable, &c. [*the justices,*] and others their fellows, justices of our lord the king, assigned by letters patent of our said lord the king, under the great seal of Great Britain, to them the justices last above named, and others, and any two or more of them made, of whom our said lord the king willed that the said —, among others in the said letters patent named, should be one, to inquire more fully of the truth, (*through the commission,*) come as well the said Richard Billson and John Heskett, on behalf of themselves and the rest of the inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, as the said John Blencowe, esquire, who prosecuteth for our said lord the king in this behalf, (by the said J. H. H. his deputy, lawfully constituted as aforesaid, and the jurors of the jury aforesaid, by M. W. esquire, sheriff of the said county of Northampton,* for this purpose impanelled and returned, (to wit,) A. B. C. D. [*the jury,*] being called, come, who being chosen, tried, and sworn to speak the truth of and upon the premises in the indictment aforesaid above specified, upon their oath say, that the said inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, are not guilty of the said premises in the indictment aforesaid above specified, in manner and form as by the indictment aforesaid is above supposed against them. Whereupon it is considered by the court and justices last above named, that the said inhabitants of the said parish of St. Giles, in the said town of Northampton, in the said county of Northampton, of the misdemeanour aforesaid, in the indictment aforesaid, above specified, be discharged and go thereof without day.

Jury.

[* 396]

Verdict of acquittal.

Judgment.

Blencowe.

Record of indictment for a conspiracy, where defendants were acquitted, no prosecutor appearing on trial. Indictment at Middlesex sessions, re-

Pleas before our lord the king at Westminster of Michaelmas term, in the fifty-second year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Middlesex.
Amongst the
indictments of
Michaelmas term,
No. 6.

Amongst the pleas of the king. Roll.

Some time ago, (that is to say) on Tuesday the 28th day of May, in the 51st year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain

and Ireland, king, defender of the faith, at the general session moved by of oyer and terminer of our lord the king, holden in and certiorari into K. B. for the county of Middlesex, at the session-house for the (g) said county, before William Mainwaring, John Nares, &c. and others their fellows, justices of our said lord the king, assigned by his majesty's letters patent, under the great seal of Great Britain, directed to the same justices before-named, and others in the said letters patent named, to inquire more fully the truth, by the oath of good and lawful men of the said county of Middlesex, and by other ways, means, and methods, by which they should or might better know, (as well within liberties as without) by whom the truth of the matter might be better known, of all treasons, misprisions of treasons, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain, and other kingdoms and dominions whatsoever, and of all murthers, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings, conventicles, unlawful uttering of words, assemblies, misprisions,* confederacies, false allegations, trespasses, [* 397] riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champarties, deceits, and all other evil doings, offences, and injuries whatsoever, and also accessaries of them, within the county aforesaid (as well within liberties as without,) by whomsoever and in what manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every of them or any of them, in any manner whatsoever, and the said treasons, and other the premises to hear and determine, according to the laws and customs of England, by the oath of twelve jurors, good and lawful men of the county aforesaid, then here sworn and charged to inquire for our said lord the king, for the body of the same county, it was presented as followeth, (that is to say,) Middlesex. The jurors for our lord the king, upon their oath, present that, &c. [here followed the indictment.] Which said indictment our said lord the king afterwards, for certain reasons, caused to be brought before him to be determined, according to the law and custom of England; wherefore the sheriff of the said county of Middlesex is commanded that he do not forbear, by reason of any liberty in his bailiwick, but that he do cause them to come to answer to our said lord the king, touching and concerning the premises aforesaid. And now, that is to say, on Wednesday next after the morrow of All Souls, in this same term, before our said lord the king at Westminster, come the

Indictment.
Removed by certiorari to K. B.
Award of process against defendant.
Appearance of defendants in K. B.

(g) See another form post 400.

Plea, not
guilty.

Similiter.

Award of
venire.

[* 398]

Continuance
by vice
comes non
misit breve.

Sheriff's re-
turn of jur-
ors who
make de-
fault.

said J. L., E. S., W. B., J. B. and J. H. by Robert Belt, their clerk in court, and having heard the said indictment read, they severally say that they are not guilty thereof; and hereupon they severally put themselves upon the country, and James Templer, esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecuteth, doth the like. Therefore let a jury thereupon come before our said lord the king, on the octave of Saint Hilary, wheresoever he shall then be in England, by whom the truth of the matter may be the better known, and who are not of the kindred of the said J. L., E. S., W. B., G. B. and J. H. or any or either of them, to try upon their oath whether the said J. L., E. S., W. B., G. B. and J. H. are, or any or either of them be guilty of the premises aforesaid or not, because as well the said James Templer, who for our said lord the king in this behalf prosecuteth, as the said J. L., E. S., W. B., G. B. and J. H., have severally put themselves upon the said jury, the same day is given as well to the said James Templer, who for our said lord the king in this behalf prosecuteth, as to the said J. L., E. S., W. B., G. B. and J. H. At which time, (to wit,) on the octave of Saint Hilary aforesaid, before our said lord the king at Westminster, come as well the said James Templer, who for our said lord the king in this behalf prosecuteth, as the said J. L., E. S., W. B., G. B. and J. H. by their clerk in court aforesaid; and the sheriff of the said county of Middlesex hath not returned the said last mentioned writ so to him directed, nor hath he done any thing thereupon, therefore (as before) let a jury thereupon come before our said lord the king in fifteen days from the feast day of Easter, wheresoever we shall then be in England, by whom the truth of the matter may be the better known, and who are not of the kindred of the said J. L., E. S., W. B., G. B. and J. H. or any or either of them, to try upon their oath whether the said J. L., E. S., W. B., G. B. and J. H. are, or any or either of them, be guilty of the premises aforesaid or not; because as well the said James Templer, who for our said lord the king in this behalf prosecuteth, as the said J. L., E. S., W. B., G. B. and J. H. have thereupon severally put themselves upon the said jury, the same day is given as well to the said James Templer, who for our said lord the king in this behalf prosecuteth, as to the said J. L., E. S., W. B., G. B. and J. H. at which time (to wit) in fifteen days from the feast day of Easter aforesaid, before our said lord the king at Westminster, come as well the said James Templer, who for our said lord the king in this behalf prosecuteth, as the said J. L., E. S., W. B., G. B. and J. H. by their clerk in court aforesaid; and the sheriff of the said county of Middlesex hath returned the names of twelve

jurors, none of whom come to try in form aforesaid. There-
fore the sheriff of the said county of Middlesex is com-
manded, that he do not forbear, by reason of any liberty in
his bailiwick, but that he distrain the bodies of the jurors
aforesaid, by all their lands and chattels in his bailiwick,
so that neither they nor any one for them do put their hands
to the same until he shall have another command from our
said lord the king for that purpose, and that he answer to
our said lord the king for the issues thereof, so that he may
have their bodies before our said lord the king on the mor-
row of the Holy Trinity, wheresoever he shall then be in
England, or before the right trusty and well-beloved of our
said lord the king Edward lord Ellenborough, chief justice
of our said lord the king, assigned to hold pleas before the
king himself, or other justice assigned as aforesaid, if
he shall come before that time (that is to say) on Tues-
day next, after the end of the term at Westminster, in the
county of Middlesex, in the great hall of pleas, there,
according to the form of the statute in such case* made [* 399]
and provided, to try upon their oath whether the said
J. L. E. S. W. B. G. B. and J. H. be guilty of the pre-
mises aforesaid or not in default of the jurors aforesaid, who
came not to try in form aforesaid, the same day is given as
well to the said James Templer, who for our said lord the
king in this behalf prosecuteth as to the said J. L. E. S. &c.
At which time (to wit) on the morrow of the Holy Trinity
aforesaid, before our said lord the king at Westminster,
come as well the said James Templer, esquire, who for our
said lord the king in this behalf prosecuteth, as the said J. L.
E. S. &c. by their clerk in court aforesaid, and the aforesaid
chief justice before whom the said jurors came to try in form
aforesaid, sent here his record had before him in these words
(that is to say), afterwards on the day and at the place last
mentioned, before the within named Edward lord
Ellenborough, chief justice of our said lord the king, assign-
ed to hold pleas before the king himself, the honourable Ed-
ward Law being associated to the said chief justice, accord-
ing to the form of the statute in such case made and provided,
come as well the within named James Templer, esquire, who
for our said lord the king in this behalf prosecuteth, as the
within named J. L. E. S. W. B. G. B. and J. H. by their
clerk in court within mentioned, and the jurors of the jury
within mentioned being called and drawn out of the panel,
according to the form of the statute in such case made and
provided, come and are sworn upon the said jury; where-
upon public proclamation is made here in court for our said
lord the king, as the custom is, that if there be any one who
will inform the aforesaid chief justice, the king's serjeant at
law, the king's attorney-general, or the jurors of the jury
aforesaid, concerning the matters within contained, he should

Award of
distringas
juratores.

Appearance
of coroner
and defen-
dants.

Postea.

Proclama-
tion.

Finding of
acquittal.

Judgment of
acquittal and
discharge.

[* 400]

Record of
acquittal
(where the
prosecutor
made de-
fault) upon
an indict-
ment for per-
jury, found
at a session
of oyer and
terminer, at
Justice Hall,
in Old Bai-
ley, and re-
moved into
B. R. (r)
Indictment.
Indictment
removed into
B. R. (r)

Plea of not
guilty.

Issue joined.

come forth, and should be heard ; and hereupon no one of-
fereth himself on behalf of our said lord the king to do this,
whereupon the court here proceedeth to the taking of the in-
quest aforesaid, by the jurors aforesaid, now here appearing
for the purpose aforesaid, who being chosen, tried, and sworn
to speak the truth touching and concerning the matters with-
in contained, say upon their oaths, that the said J. L. E. S.
W. B. G. B. and J. H. are not, nor is either of them guilty
of the premises within charged upon them in the within
written indictment, in manner and form as the said J. L. E.
S. W. B. G. B. and J. H. by severally pleading for themselves
have within alledged ; whereupon all and singular the pre-
mises being seen and fully understood by the court of our
said lord the king now here, it is considered and adjudged
by the said court here, that the said J. L. E. S. &c. and
every of them, be dismissed and discharged by the said court
here, of and from the* premises above specified in the said
indictment, and that they and every of them do depart hence
without day.

London. Some time ago, that is to say, on Wednesday,
the twenty-third day of February, in the fifteenth year of the
reign of our sovereign lord George the third, king of Great
Britain, &c. at the general session of oyer and terminer of
our lord the king, holden for the city of London, at
justice hall in the Old Bailey, within the parish of St. Sepul-
chre, in the ward of Farrindon-without, in London aforesaid,
before Richard Clark, esq. mayor of the said city of London,
&c. [*here set out the commission of oyer and terminer*] upon
the oath of twelve jurors, good and lawful men of the city of
London, then and there sworn and charged to enquire for our
said lord the king, and the body of the said city, it was pre-
sented as follows, that is to say, [*here set out the indictment
verbatim*] which said indictment our said lord the king after-
wards, for certain reasons, caused to be brought before him
to be determined according to the law and custom of England,
wherefore the sheriffs of the city of London are commanded
that they do not forbear, by reason of any liberty in their
bailiwick, but that they cause him the said A. B. to come to
answer to our said lord the king touching and concerning
the premises aforesaid. And now at this day, that is to say,
on Friday next, after the morrow of the holy Trinity, in this
same term, before our said lord the king at Westminster,
comes the said A. B. by J. F. A. his attorney, and having
heard the said indictment read, he saith that he is Not Guilty
of the premises in the said indictment alleged against him,
as in and by the said indictment is above set forth, and here-
upon he puts himself upon the country ; and James Templer,

esq. coroner and attorney of our said lord the king, in the
 court of our said lord the king, before the king himself, who
 for our said lord the king in this behalf prosecutes doth so
 likewise; therefore let a jury thereupon come before our said
 lord the king at Westminster, on Monday next after the
 morrow of All Souls, by whom the truth of the matter may
 be the better known and enquired into, and who are not
 of the kindred of the said A. B. to try upon their oath
 whether the said A. B. is guilty of the premises aforesaid
 or not; because as well the said James Templer who
 prosecutes as aforesaid, as the said A. B. have thereupon
 put themselves upon the said jury, the same day is given
 as well to the said James Templer, who prosecutes as aforesaid
 as to the said A. B. At which time, to wit, on Monday next
 after* the morrow of All Souls aforesaid, before our said
 lord the king at Westminster aforesaid, come, as well the
 said James Templer who prosecutes as aforesaid, as the said
 A. B. by his attorney aforesaid; and the sheriffs of the said
 city of London have returned the names of twelve jurors,
 none of whom come to try in form aforesaid, therefore the
 sheriffs of the said city of London are commanded that
 they distrain the bodies of the jurors aforesaid by all their
 lands and chattels in their bailiwick, so that neither they
 nor any one for them do lay their hands upon the same, until
 they have another command from our said lord the king for
 that purpose; and that they answer to our said lord the
 king for the issues thereof, so that they may have their
 bodies before our said lord the king, at Westminster, on
 Tuesday next after the octave of Saint Hilary, before the
 right trusty and well-beloved of our said lord the king, Wil-
 liam earl of Mansfield, chief justice of our said lord the
 king, assigned to hold pleas in the court of our said lord the
 king before the king himself if he shall come before that
 time, that is to say, on Wednesday next after the end of
 Michaelmas term, in the sixteenth year of the reign of our
 lord the king, at the guildhall of the said city of London,
 according to the form of the statute in such case made and
 provided, to try upon their oath, whether the said A. B. be
 guilty of the premises aforesaid or not, in default of the
 jurors aforesaid, who came not to try in form aforesaid,
 therefore let the sheriffs of the said city have the bodies of
 the jurors aforesaid accordingly, to try in form aforesaid,
 the same day is given as well to the said James Templer,
 who prosecutes as aforesaid, as the said A. B. At which
 time, to wit, on Tuesday next after the octave of Saint Hi-
 lary aforesaid, before our said lord the king, at Westminster
 aforesaid, come, as well the said James Templer, as the said
 A. B. by his attorney aforesaid, and the said chief justice
 before whom the said jurors came to try in form aforesaid,
 sent here his record had before him, in these words, to wit,

Venire.

At which
day, &c.

[* 401]

Distringas.

Continued to
Saint Hilary.Adjourn-
ment, day of
the sittings.At which
day, &c.

| | |
|---|---|
| Postea. | afterwards, that is to say, on the day and at the place within mentioned, before the within named William earl of Mansfield, chief justice of our said lord the king within named, John Way, gentleman, being associated to the said chief justice, according to the form of the statute in such case made and provided, come, as well the said James Templer, who prosecutes as aforesaid, as the within named A. B. by his attorney within mentioned, and the jurors of the jury within mentioned being called and drawn out of the panel, according to the form of the statute in such case made and provided, come and are sworn upon the said jury; whereupon |
| [* 402] | public proclamation is* made here in court for our said lord the king, as the custom is, and if there be any one who will inform the chief justice aforesaid, the king's serjeant at law, the king's attorney general, or the jurors of the jury aforesaid, concerning the matters within contained, he should come forth and should be heard; and hereupon no one offereth himself on the behalf of our said lord the king to do this, whereupon the court here proceedeth to the taking of the inquest aforesaid, by the jurors aforesaid, now here appearing, for the purpose aforesaid, who being chosen, tried, and sworn to speak the truth touching the matters within contained, do say, upon their oath, that the said A. B. is not |
| Not guilty. | guilty of the premises within charged upon him in the within written indictment mentioned, in manner and form as the said A. B. by pleading for himself hath within alledged; |
| Acquittal. | whereupon all and singular the premises being seen and fully understood by the court here, it is considered and adjudged by the said court here, that the said A. B. in this behalf do depart without day. |
| Record of judgment in in K. B. on a special verdict, with several continuances. (s) | [<i>State caption of sessions, and indictment as usual, and then state removal by certiorari, thus :</i>] Which said indictment the lord the now king afterwards, for certain causes, caused to come to be determined before himself, &c. Wherefore the sheriff was commanded that he should not omit, &c. but that he should cause the said James Watson to come to answer, &c. And now, to wit, on Thursday next after the octave of Saint Hilary, in this same term before the lord the king at Westminster, cometh the said James Watson, by Richard Foulkes, his attorney, and having heard the indictment aforesaid, saith that he is not guilty thereof, and of this he puts himself upon the country; and Samuel Astray, knight, coroner and attorney of the lord the king, in the court of the said lord the king, before the king himself, who prosecutes for the said lord the king in this behalf, likewise, &c. Therefore let a jury thereupon come before the said lord the king, from Easter day in fifteen days wheresoever, &c. by whom, &c. and who, &c. to recognise, &c. because as well, |
| The indictment removed to B. R. | |
| Plea, not guilty. | |
| Venire awarded. | |

&c. The same day is given as well to the said Samuel Astry, knight, who prosecutes, &c. as to the said James Watson, &c. At which said fifteen days of Easter, before the said lord the king at Westminster come, as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson, by his attorney aforesaid, and the sheriff hath not sent the writ thereof, therefore, as before let a jury come thereupon before the said lord the king, on the morrow of the Holy Trinity wheresoever,* &c. by whom, &c. and who, &c. to recognize, &c. because as well, &c. The same day is given as well to the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson, &c. on which said morrow of the Holy Trinity, before the said lord the king at Westminster, come as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson by his attorney aforesaid; and the sheriff hath returned the names of twelve jurors, of whom none, &c. therefore the sheriff of the county aforesaid is commanded that he do not omit, &c. but that he distrain them by all their lands, &c. and that of the issues, &c. so that he may have their bodies before the said lord the king, from the day of St. Michael in three weeks, wheresoever, &c. or before the justices of the said lord the king assigned to take the assizes in the county of Norfolk aforesaid, if they shall before come on Thursday the 14th day of August, at the castle of Norwich, in the county aforesaid, by form of the statute, &c. for want of jurors, &c. therefore let the sheriff have the bodies, &c. to recognize in form aforesaid. The same day is given as well to the said Samuel Astry, knight, who prosecutes, &c. as to the said James Watson, &c. at which said three weeks of St. Michael, before the said lord the king at Westminster, come, as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson by his attorney aforesaid. And the justices aforesaid, before whom, &c. have sent here their record before them, had in these words: afterwards on the day and at the place within contained, before Thomas Trevor, knight, chief justice of the lord the king of the bench, and Robert Tracey, esquire, one of the barons of the exchequer of the said lord the king, justices of him the said lord the king assigned to take the assizes in the county of Norfolk by form of the statute, &c. came as well the within named Samuel Astry, knight, coroner and attorney of the said lord the king, in the court of him the said lord the king, before the king himself, who prosecutes, &c. in his proper person, as the within written James Watson, by his attorney within contained, and the jurors of the jury whereof mention is within made being called, certain of them, to wit, Thomas Woodrowe, Samuel Jellians, Henry Utting, John Kingwood, Thomas Ward, Thomas Backe, John Butler, Thomas Pycenoff, John Haylett, Thomas Norris, and Francis Fisher, come and are sworn upon the jury aforesaid, and because the rest of the jurors of the same

The sheriff
non misit
breve.

[* 403]

Return of
the venire,

Distringas
awarded.

Nisi prius at
Norwich.

Postea.

[* 404]

The trial put
off by a juror
being with-
drawn.

Decem tales
awarded.

The sheriff
non misit
breve.

jury did not appear, therefore another of the bystanders being chosen for this person by the sheriff of the county aforesaid, at the request of Edward Northey, esquire, attorney-general of the said lord the king, and by the command of the said justices* newly appointed, whose name is affixed in the panel within written according the form of the statute, in such lately made and provided, which said juror so newly appointed, to wit, William Spence being called likewise came, and hereupon public proclamation was made here in court for the said lord the king, as the custom is, that if there was any one who would inform the justices aforesaid, the said lord the king's serjeant at law, the said king's attorney-general, or the jury within written, of the premises within contained, he might come forth and be heard, and Charles Whitaker, esq. one of the serjeants at law of the said lord the king, offered himself to do this, whereupon it was proceeded to take the jury aforesaid by the said jurors now appearing thereupon, who were chosen, tried, and sworn to speak the truth concerning the matter within contained. And afterwards one of the jurors aforesaid, to wit, Francis Fisher, of Blo Norton, with the consent as well of the said Samuel Astry, knight, who prosecutes, &c. as of the said James Watson, was absolutely withdrawn by the court from the panel within written, and the rest of the jurors, with the consent as well of the said Samuel Astry, knight, who prosecutes, &c. as of the said James Watson, are discharged by the justices aforesaid from saying any thing now of their verdict of and upon the premises, therefore the sheriff of the county aforesaid is commanded that (the said Francis Fisher being removed) he do not omit, &c. but that he distrain the jurors before impanelled by all their lands, &c. and that of the issues, &c. so that he may have their bodies before the said lord the king on the octave of St. Hilary wheresoever, &c. to recognize in form aforesaid. The sheriff of the county aforesaid is also commanded that he do not omit, &c. but that he put ten such, &c. and who, &c. and that he may have them before the said lord the king at the aforesaid term to recognize, &c. in form aforesaid, so that, &c. The same day is given, as well to the said Samuel Astry, knight, who prosecutes, &c. as to the said James Watson, &c. At which said octave of St. Hilary before the said lord the king, at Westminster, come as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson, by his attorney aforesaid, and the sheriff hath not thereupon sent the writ, therefore as before the sheriff of the county aforesaid is commanded that (the said Francis Fisher being removed) he do not omit, &c. but that he distrain the jurors before impanelled by all their lands, &c. and that of the issues, &c. so that he may have their bodies before the said lord the king from Easter day in fifteen days wheresoever, &c. or before the

justices of the said lord the king assigned to take the assizes in the county of Norfolk aforesaid, if they shall before come on Thursday* the 19th day of March, at Thetford, in the county aforesaid, by form of the statute, &c. for want of jurors, therefore let the sheriff have the bodies, &c. to recognize in form aforesaid, the sheriff of the county aforesaid is also commanded that he do not omit, &c. but that he put ten such, &c. by whom, &c. and who, &c. And that he have them before the said lord the king at the said fifteen days of Easter wheresoever, &c. or before the justices of the said lord the king assigned to take the assizes in the county aforesaid, if they shall before come on the said Thursday the 19th day of March, at Thetford aforesaid, in the county aforesaid, by form of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. to recognize in form aforesaid, &c. so that, &c. The same day is given as well to the said Samuel Astry, knight, who prosecutes, &c. as to the said James Watson, &c. At which said fifteen days of Easter, before which day our late sovereign lord William the third, king of England, &c. died, and the rule and government of this realm of England descended to the most serene lady Anne, now queen of England, &c. which said lady Anne hath taken upon herself the rule and government thereof; and at the same fifteen days of Easter, the process aforesaid was adjourned by the writ of the said lady Anne, now queen of England, &c. of common adjournment, before the said lady the queen, until from Easter day in three weeks wheresoever, &c. at which said three weeks of Easter, before the said lady the queen at Westminster, come as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson by his attorney aforesaid; and the sheriff of the county of Norfolk aforesaid hath not thereupon sent the writ, nor the justices the record, therefore as before the sheriff of the county aforesaid is commanded, that (the said Francis Fisher being removed) he do not omit, &c. but that he distrain the jury before impanelled by all their lands, &c. and that of the issues, &c. so that he may have their bodies before the said lady the now queen, on the morrow of the Holy Trinity wheresoever, &c. to recognize in form aforesaid: the sheriff of the county aforesaid, is also commanded that he do not omit, &c. but that he put ten such, &c. and who, &c. and that he may have them before the said lady the queen at the said term to recognize in form aforesaid, so that, &c. the same day is given as well to the said Samuel Astry, knight, who prosecutes, &c. as to the said James Watson, &c. at which said morrow of the Holy Trinity before the said lady the now queen at Westminster, come as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson by his attorney aforesaid, and the sheriff hath not thereupon sent* the writ,

Nisi prius at
Thetford.
[* 405]

A second de-
cem tales.

The death of
the king.

Writ of ad-
journment.

A third de-
cem tales.

[* 406]

nor the justices the record, therefore as before the sheriff of the county aforesaid, is commanded that (the said Francis Fisher being removed) he do not omit, &c. but that he distrain the jury before impanelled, by all their lands, &c. and that of their issues, &c. so that he may have their bodies before the said lady the queen from the day of St. Michael, in three weeks, wheresoever, &c. or before the justices of the said lady the now queen, assigned to take at the assizes

Nisi prius at in the county of Norfolk aforesaid, if they shall before
Norwich. come, on Tuesday the fourth day of August, at the castle of Norwich, in the county aforesaid, by form of the statute, &c. for want of jurors, &c. therefore let the sheriff have the bodies, &c. to recognize in form aforesaid; the sheriff of the said county is also commanded, that he do not omit, &c.

Fourth de- but that he put ten such, &c. by whom, &c. and who, &c.
cem tales. and that he have them before the said lady the queen at the said three weeks of St. Michael, wheresoever, &c. or before the said justices of the said lady the now queen, assigned to take the assizes in the county aforesaid, if they shall before come on the said Tuesday the fourth day of August, at the said castle of Norwich, in the county aforesaid, by form of the statute, &c. for want of jurors, &c. therefore let the sheriff have the bodies, &c. to recognize, &c. in form aforesaid, so that, &c. the same day is given as well to the said Samuel Astry, knight, who prosecutes, &c. as to the said James Watson, &c. at which said three weeks of St. Michael, before the said lady at Westminster, come as well the said Samuel Astry, knight, who prosecutes, &c. as the said James Watson by his attorney aforesaid; and the said justices before whom, &c. have sent here their record before

Postea. them had, in these words: afterwards on the day and at the place within contained, before Edward Nevill, knight, one of the said lady the queen her justices of the bench, and Robert Price, esq. one of the barons of the exchequer of the said lady the queen, justices of the said lady the queen, assigned to take the assizes in the county of Norfolk by form of the statute, &c. came as well the within named Samuel Astry, knight, coroner and attorney of the said lady the queen, in the court of the said lady the queen, before the queen herself, who prosecutes, &c. in his proper person, as the within written James Watson by his attorney within contained, and hereupon public proclamation was made here in court for the said lady the queen, as the custom is, that if there was any one who would inform the justices aforesaid, the said queen's serjeant at law, the said queen's attorney general, or the jury within written, concerning the premises, he might come forth and be heard, and Charles Whitaker, esq. serjeant at law, offered

[* 407] himself to do this, whereupon it was proceeded to take the jury* aforesaid, and the jurors of the jury whereof mention is within made, being called, certain of them, to wit, John

Elgan, Samuel Scarfe, Thomas Woodrowe, Samuel Jellians, John Lingwood, John Butler, John Haylett, Thomas Morris, John Gamble, and Charles Bullock, came and are sworn upon that jury, and because the rest of the jurors of the said jury did not appear, therefore others of the bye standers, by the sheriff of the county aforesaid, to this being chosen at the request of the said Samuel Astry, and by the command of the justices aforesaid, are newly appointed, whose names are affiled in the panel within written, according to the form of the statute in such case lately made and provided, which said jurors so newly appointed, to wit, William Sheen and Edward Roberts, being called likewise came, who being chosen, tried, and sworn to speak the truth concerning the matter within contained, together with the other jurors aforesaid before impanelled and sworn, say upon their oath, that the within named James Watson, at the time of the indictment within specified against him for the matters within contained, and for ten years before, was possessed of the messuage or dwelling-house within specified, and that one Sarah Davy, widow, who at the same time dwelt at Exeter, out of the jurisdiction of the court of the borough of King's Lynn within written at the time of the indictment aforesaid, and also for the whole time aforesaid was seised of and in the messuage and dwelling-house aforesaid, and being so seised thereof, demised the said messuage or dwelling-house with the appurtenances to the said James, to hold to the said James at the will only of them the said Sarah and James, but whether the said James be chargeable to repair the messuage or dwelling aforesaid, and the foundation thereof, by reason of his tenure, the jurors aforesaid are wholly ignorant, and pray the advisement of the court in the premises; and if upon the whole matter aforesaid, by the jurors aforesaid, in form aforesaid found, it shall seem to the court here that the said James, by reason of his tenure, be chargeable to repair the said messuage or dwelling-house and the foundation thereof, then they the said jurors say upon their oath aforesaid, that the said James Watson is guilty of the premises in the indictment within written within specified, in manner and form as by that indictment for the said lady the queen is within alledged; but if upon the whole matter aforesaid, by the jurors aforesaid, in form aforesaid found, it shall seem to the court here, that the said James, by reason of his tenure, is not chargeable to repair the messuage or dwelling-house aforesaid, nor the foundation thereof, then the same jurors say upon their oath, that the said James Watson* is not guilty of the premises in the same indictment within specified, in manner and form as the same James within in pleading for himself hath alledged, &c.

Tales.

Special verdict.

[* 408]

Judgment against the defendant.

Record of judgment in K. B. for a fine, on indictment against parish, with several continuances. (t)

Quarter sessions adjourned to Preston.

Adjourned to Ormskirke.

[* 409]
Further adjourned to Manchester.

Lancashire, (to wit.) At the general quarter session of the peace of the said lady the queen, holden at Lancaster, in and for the county palatine of Lancaster, on Tuesday, to wit, the 13th day of July, in the second year of the reign of lady Ann, by the grace of God, of England, Scotland, France, and Ireland, queen, defender of the faith, &c. before Edward Wilson, esquire, Charles Rigby, William Buckley, esquire, and Thomas Shenson, esq. justices of the said lady the queen, assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the said county, the same general quarter sessions of the peace is adjourned by the said justices of the said lady the queen, being in the court, until Thursday, to wit, the 15th day of the same month of July, to be holden at Preston, in Amounderness, in and for the county aforesaid; at which said session of the peace of the said lady the queen, holden by adjournment aforesaid at Preston in Amounderness aforesaid, in and for the county aforesaid, on the said Thursday, the 15th day of July, in the second year above said, before Richard Fleetwood, esq. William Farrington, esq. Richard Longworth, esq. and Thomas Foster, esq. justices of the said lady the queen, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, the said session of peace of the said lady the queen is further adjourned by the same justices of the said lady the queen last mentioned, being in the court, until Monday the 19th day of the same month of July, to be holden at Ormskirke, in and for the county aforesaid, at which said session of the peace of the said lady the queen, holden by that adjournment at Ormskirke aforesaid, in and for the said county, on the said Monday, to wit, the 19th day of July, in the second year above said, before the honourable Charles Stanley, esq. Thomas Stanley, bart. Roger Bradshaigh, bart. Richard Bold, esq. William Farrington, esq. Robert Mawdesly, esq. Thomas Ashurst, esq. Jonathan Blackburne, esq. and Thomas Johnson, esq. justices of the said lady the queen, assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine* divers felonies, trespasses, and other misdemeanours committed in the same county, that sessions of the peace is adjourned, by the same justices of the said lady the queen last named, being in the court, until Thursday, to wit, the 22d day of the same month of July, to be holden at Manchester aforesaid, in and for the county aforesaid, on the said Thursday, the 22d day of July, in the second year

above said, before George Birch, esq. Richard Entwisle, esq. Charles Hilton, esq. Christopher Dautesey, esq. justices of the said lady the queen, assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the county aforesaid. An inquisition is taken at Manchester aforesaid, in and for the county aforesaid, before the justices last named, on the said 22d day of July, in the second year above said, by the oath of Daniel Gaskell, of Clifton-cum-Pendlebury, gent. Thomas Moss, of Manchester, gent. John Holme, of Heaton Norris, gent. Jonathan Dawson, of Manchester, gent. Robert Ravald, of Broughton, gent. William Booth, of Ryton, gent. John Booth, of the same, gent. Michael Flitcraft, of Manchester, gent. John Oldcroft, of the same, gent. John Rideing, of Chetham, gent. Richard Hill, of Hundersfield, gent. William Sharlock, of Barton, gent. James Bradshaw, of the same, gent. John Chadwick, of the same, gent. John Gee, of the same, gent. Edmund Smetharst, of Radcliffe, gent. and William Hampden, of the same, gent. honest and lawful men of the county aforesaid, then and there sworn and charged to inquire for the said lady the queen, and the body of the county aforesaid, who say, and present upon their oath, that the queen's highway, in Stretford, in the county of Lancaster, between the west end of a certain lane within Urmeston, in the county aforesaid, and a certain place called Stretford cross, for the space of fifty rods, or thereabouts, leading between the village of Flixton, in the county aforesaid, and the market-town of Stockport, in the county of Chester, on the 11th day of January, in the first year of the reign of the lady Ann, by the grace of God, of England, Scotland, France, and Ireland, queen, defender of the faith, &c. at Stretford aforesaid, in the county of Lancaster aforesaid, was, and yet is, very dirty and muddy, and so narrow that the liege men and subjects of the said lady the queen, by and through the said way, by themselves, or with their horses, oxen, carts, and carriages, cannot go, return, pass, ride and labour, without great peril of their lives and goods, to the common nuisance of all the liege people and subjects of the said lady the queen whom it concerns to go, return, pass, ride, and labour,* by and through the said queen's highway, and against the peace of the said lady the queen, &c. ; and that the inhabitants of Stretford aforesaid, from time whereof the memory of man is not to the contrary, have used and been accustomed, and ought to repair and amend the same way as often as and when need should be. Afterwards, that is to say, at the general quarter sessions of the peace of the lady the queen, holden at Lancaster, in and for the county palatine of Lancaster aforesaid, on Tuesday, to wit, the 11th day of January, in the second year of the reign

The bill of
indictment
found.

[* 410]

At a quarter
sessions at
Lancaster.

Adjourned
to Preston.

Further ad-
journed to
Wygan.

Further ad-
journed to
Manchester.

[* 411]

of the lady Ann, by the grace of God, of England, Scotland, France, and Ireland, queen, defender of the faith, &c. before Edward Wilson, esq. Thomas Shenson, esq. and John Hodgson, esq. justices of the said lady the queen, assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county; that same general quarter sessions of the peace is adjourned, by the said justices of the said lady the queen, until Thursday, to wit, the 13th day of the same month of January, to be holden at Preston in Amounderness, in and for the county aforesaid; at which said general quarter session of the peace of the said lady the queen, holden by adjournment aforesaid at Preston, in Amounderness aforesaid, in and for the county aforesaid, on the said Tuesday, to wit, the 13th day of January, in the second year above said, before Richard Fleetwood, esq. Thomas Rigby, esq. Edward Rigby, esq. and Richard Longworth, esq. justices of the said lady the queen, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, the said general quarter session of the peace of the said lady the queen is further adjourned, by the same justices of the said lady the queen last named, until Monday, to wit, the 17th day of the same month of January, to be holden at Wygan, in and for the county aforesaid; at which said general quarter session of the peace of the said lady the queen holden by that adjournment at Wygan aforesaid, in the county aforesaid, on Monday, to wit, the 17th day of January, in the second year above said, before Thomas Stanley, bart. William Farrington, esq. Thomas Ashurst, esq. Jonathan Blackburne, esq. Charles Hilton, esq. and Jonathan Case, esq. justices of the said lady the queen, assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours, committed in the same county, that general quarter session of the peace of the said lady the queen is further adjourned, by the same justices of the said lady the queen last named, until Thursday, to wit, the 20th day of the same month of January, to be holden at Manchester, in and for the county aforesaid; at which said general quarter session of the peace of the said lady the queen, holden by that adjournment at Manchester aforesaid, in and for the county aforesaid, on the said Thursday, the 20th day of January, in the second year above said, before James Holt, esq. Joshua Horton, esq. Richard Entwisle, esq. Charles Hilton, esq. and Christopher Dautesey, esq. justices of the said lady the queen, assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and

other misdemeanours committed in the same county, John Sherlock and Thomas Moss, two of the inhabitants of the town of Stretford aforesaid, in the name of all the inhabitants of the same town, come and complain they, by colour of the premises in the indictment aforesaid specified are greatly vexed and disquieted, and in this unjustly, because they protest that the indictment aforesaid, and the matter in the same contained are not sufficient in law, to which they have no necessity, neither are they bound by the law of the land to answer; nevertheless, for plea they say, that the inhabitants of Stretford aforesaid, are not guilty of the premises laid to their charge, and of this they put themselves upon the country, and Nicholas Starkey, esq. attorney general of the said lady the queen of her county palatine of Lancaster aforesaid, who prosecutes for the said lady the queen in this behalf likewise, whereupon the sheriff of the county aforesaid is commanded that he do not omit because of any liberty of his county aforesaid, but that he cause to come before the justices of the said lady the queen at the general quarter session of the peace of the said lady the queen, after the feast of Easter next, coming to be holden at Manchester aforesaid, twelve, &c. by whom, &c. to recognize, &c. because as well, &c. The same day is given, as well to the said Nicholas Starkey, esq. who prosecutes, &c. as to the said John Sherlock and Thomas Moss, two of the inhabitants of Stretford aforesaid, in the name of all the inhabitants of the said town; at which said general quarter session of the peace, to wit, at the general quarter session of the peace of the lady the queen holden at Lancaster, in and for the county palatine of Lancaster aforesaid, on Tuesday, to wit, the 25th day of April, in the third year of the reign of the Lady Ann, by the grace of God, of England, Scotland, France, and Ireland, queen, defender of the faith, &c. before Roger Kirby, esq. Edward Wilson, esq. Thomas Sheirson, esq. John Hodgson, esq. and William Buckley, esq. justices of the said lady the queen assigned to keep the* peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, that same general quarter session of the peace of the said lady the queen is adjourned by the said justices of the said lady the queen until Thursday, to wit, the twenty-seventh day of the same month of April, to be holden at Preston, in Amounderness, in and for the county aforesaid, at which said general session of the peace of the said lady the queen, held by adjournment aforesaid, at Preston, in Amounderness aforesaid, in and for the county aforesaid, on the said Thursday, to wit, the 27th day of April, in the third year above said, before Richard Fleetwood, esq. William Farrington, esq. Thomas Rigby, esq. Richard Longworth, esq. and Thomas Forster, esq. justices

Two of the inhabitants in the name of all, plead not guilty.

Issue joined upon not guilty.

[* 412]

Adjourned to Preston.

Further ad-
journed to
Manchester.

[* 413.]

Some of the
jury sworn.

Tales.

of the said lady the queen, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, the said general quarter session of the peace of the said lady the queen is further adjourned by the same justices of the said lady the queen last named until Monday, to wit, the first day of May, in the third year above said, to be holden at Ormeskirke, in and for the county aforesaid, at which said session of the peace of the said lady the queen, holden by that adjournment at Ormeskirke aforesaid, in and for the county aforesaid, on the said Monday, to wit, the first day of May, in the third year above said before Thomas Stanley, bart. William Farrington, esquire, Thomas Ashurst, esquire, Jonathan Blackburne, esquire, and Jonathan Case, esquire, justices of the said lady the queen assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses and other misdemeanours committed in the same county, that general quarter session of the peace of the said lady the queen is further adjourned by the same justices of the said lady the queen last named until Thursday, to wit, the 4th day of May, in the third year above said, to be holden at Manchester, in and for the county aforesaid; at which said general quarter sessions of the peace of the said lady the queen, holden by that adjournment at Manchester aforesaid, in and for the county aforesaid, on Thursday the 4th day of May, in the third year above said, before Ralph Asheton, bart., Peter Egerton, esquire, Richard Entwisle, esquire, Christopher Dautesey, esquire, and Charles Hilton, esq. justices of the said lady the queen assigned to keep the peace of the said lady the queen in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, come as well the* said Nicholas Starkey, esquire, who prosecutes for the said lady the queen in this behalf, as the said John Sherlock and Thomas Moss, two of the inhabitants of Stretford aforesaid, in the names of all the inhabitants of the same town, in their proper persons, and the jurors by the sheriff aforesaid being called and impelled for this purpose, certain of them, to wit, Peter Locker, of Westhoughton, in the county of Lancaster aforesaid, gent. Robert Lee, of the same, gent. Samuel Gooden, of Eaton Norres, in the county aforesaid, gent. Richard Clegg, of Spotland, in the county aforesaid, gent. John Buckley, of Tottington, in the county aforesaid, gen. James Hodgkinson, of Ampull, in the county aforesaid, gentleman, Edmund Cooper, of Middleton, in the county aforesaid, gentleman, came and are sworn upon the jury, and because the rest of the jurors of the jury did not appear, therefore others of the bystanders by the sheriff of the county aforesaid being chosen at the request of the said Richard Starkey, esquire, attorney-general of the said lady the queen, and by the com-

mand of the justices, are newly appointed, whose names are affiled in the panel within written according to the form of the statute in such case made and provided, which said jurors so newly appointed, to wit, Samuel Waring, of Bury, in the county aforesaid, gentleman, Robert Jepsom, of Hardwicke, in the county aforesaid, gentleman, John Bolton, of Tong, in the county aforesaid, gentleman, William Somehurst, of Prestwich, in the county aforesaid, gentleman, and Robert Woollencroff, of Falsworth, in the county aforesaid, gentleman, likewise come and are sworn upon the jury with the jurors aforesaid impanelled, whereupon public proclamation being made here in court for the said lady the queen, as the custom is, that if there was any one that would inform the said justices of the lady the queen, the queen's serjeant at law, the queen's now attorney-general, or the jurors sworn aforesaid, he might come forth and he should be heard, and hereupon it is proceeded to the taking of the jury aforesaid, as well by the other jurors aforesaid now appearing, who being-chosen, tried, and sworn to speak the truth concerning the premises, together with the other jurors aforesaid being impanelled and sworn, say, upon their oath, that the inhabitants of Stretford aforesaid are guilty of the premises in manner and form as by the indictment aforesaid for the said lady the now queen is above supposed against them. Whereupon all and singular the premises having been seen and understood by the court here, it is considered by the court that the said inhabitants of Stretford aforesaid do forfeit* to the said lady the queen by occasion of the nuisance aforesaid, in not repairing the king's highway aforesaid, the sum of forty pounds. And afterwards, for certain causes the said justices specially moving, it is ordered that the execution of that judgment be respited until the seventh day of July next coming, &c.

Verdict
against the
defendants.

[* 414]
Judgment.

Fine 40l.

[* 415]

CHAPTER* XVIII.

PROCEEDINGS IN ERROR, &c.

Præcipe for writ of error. **(a)** **LINCOLNSHIRE.** Writ of error directed to the keepers of the peace and justices for the parts of Kesteven, in the county of Lincoln, to remove into the court of king's bench all and singular records of conviction of the inhabitants of the parish of Ruskington, in the said parts and county, upon an indictment for not repairing a certain road or way, and certain gates and fences in the said indictment mentioned, in order that the same may be quashed for the errors therein appearing. Returnable on the morrow of All Souls, where-soever, &c.

Fiat thereon. Let there be a writ of error according to the tenor within mentioned.

W. Garrow,

2, Lincoln's inn, 2d August, 1815.

Præcipe with the attorney general's fiat for the writ of error, on indictment for receiving stolen goods. **(b)** **[* 416]** **Lancashire.** Writ of error for A. S. on a judgment at the Manchester quarter sessions, on an indictment for a misdemeanour, which states that the said A. S. after the first day of August, one thousand seven hundred and eighty-two, to wit, on the twenty-fifth* day of December, in the thirty-eighth year of his present majesty's reign, with force and arms, at the parish aforesaid, in the county aforesaid, seventeen pieces of iron called strokes, of the value of sixpence, seventeen pieces of iron of the value of threepence, and seven pieces

(a) See another form, Hand's Prac. 462. Ante 1 vol. 749.

(b) Hand. Prac. 462. Ante 1 vol. 749.

of iron called horse-shoes, of the value of one penny, of the proper goods and chattels of R. P., W. Y., E. Y., I. H., and H. W., by a certain ill-disposed person then lately before feloniously stolen, taken, and carried away, of the same ill-disposed person wilfully, feloniously, and unjustly, and for the sake of wicked gain, did buy and receive, he the said A. S. then and there well knowing the same goods and chattels to have been feloniously stolen, taken, and carried away. Returnable in the king's bench.

Let the above writ issue.

Fiat.

John Scott.

3d October, 1798.

George the third, by the grace of God, &c. To our keepers of our peace in the county of L. and to our justices appointed to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, and to each of them, greeting: For as much as in the record and process as also in giving of judgment in a certain indictment made against A. S. of a certain misdemeanour, which states (as in the præcipes supra,) whereof the said A. by a certain jury of the county taken thereupon, between us, and the said A. before you is thereupon convicted, as it is said manifest error hath intervened, to the great damage of the said A. as by his complaint we are informed. We, willing that the said error, if any be, be duly answered, and full and speedy justice done to the said A. in this behalf, do command you that, if judgment be given thereupon, then you send to us, distinctly and plainly, under your seals, or the seal of one of you, the record and process aforesaid, with all things touching the same, and this writ, so that we may have them on the morrow of St. Martin, wheresoever we shall then be in England, that in inspecting the record and process aforesaid we may cause further to be done thereupon for amending the said error, as of right, and according to the laws and customs of England, shall be meet to be done. Witness ourself at Westminster, the thirtieth day of October, in the thirty-ninth year of our reign.

Peele.

The* execution of this writ appears in certain schedules hereunto annexed. Return thereto. (d)

A. B. one of the keepers of the peace and justices within named. [* 417]

(c) Hand's Prac. 462. 3 Lord Raym. 33. Lit. Ent. 239, 244. Ante 1 vol. 747.

(d) See ante 1 vol. 750. Hand, Prac. 44, and see the form of re-

cord post.; and to this are annexed the proceedings which are to be removed by the writ of error.

Writ of error
into K. B. on
behalf of heir
of offender.
(e)

William, &c. To our justices, by our letters patent made under the great seal of England, to inquire, by the oath of good and lawful men of the city of L. and other ways, methods, and means, whereby they could or might better know of all treasons, misprisions of treason, insurrections, rebellions, and other misdemeanours, offences, and injuries whatever, and also to our justices assigned to deliver our gaol of Newgate for the city of L. of the prisoners being in the same, and to every of them, greeting: Because in the record and proceedings, and also in the giving of the judgment, on a certain indictment against T. W. late of L. gent. deceased, for certain high treasons touching the person of the lord Charles the second, late king of England, whereof he is indicted, and thereupon, by a certain jury of the county thereon, between the said lord the late king and the said T. taken before the justices of the said lord Charles the second, late king of England, &c. assigned to deliver the gaol aforesaid, is convicted, and judgment is thereon given, as it is said manifest error hath intervened, to the great damage of J. W. son and heir of the said T. as by his complaint we have understood; we being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the said John in this behalf, command you, if judgment be given, then the record and proceedings aforesaid, with all things touching the same, to us, under your or one of your seals, you distinctly and openly send, and this writ, so that we may have them from the day of Easter, in three weeks, wheresoever we shall then be in England, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error, what of right, and according to the law and custom of our kingdom of England shall be to be done. Witness ourself at Westminster, 16th day of March, in the seventh year of our reign.

Writ of error
on reversal
of judgment
in K. B. to re-
move pro-
ceedings into
parliament.
(f)

[* 418]

William, &c. To our beloved and faithful John Holt, knight, our chief justice, assigned to hold pleas before us, greeting: Because in the record and process, and also in giving judgment upon* a certain indictment against T. W. late of London, gent. lately deceased, for certain high treasons, touching the person of our lord Charles the second, late king of England, whereof he was lately indicted, and thereupon, by a certain jury thereupon taken, between our said late king and the said T. W. before the justices aforesaid, assigned to deliver the gaol of our said late king, was convicted, and judgment was thereupon given for our said late king against the said T. W. as it is said, which said record and process aforesaid we lately caused to be brought before

(e) Lil. Ent. 239. 6 Harg. St. Tr. 42, Appendix. Ante 1 vol. 747.
(f) 6 Harg. St. Tr. Appx. 42. Ante 1 vol. 747.

us in our court, for certain cause of error therein intervening. And because, in the reversal of the judgment aforesaid before us, upon the writ of error aforesaid, manifest error hath intervened, to the great damage of one I. D. widow, countess of Roscommon, in our kingdom of Ireland, as from her complaint we have heard, we being willing that the error, if any there be, should be in due manner corrected, and full and speedy justice be done to the said I. in this behalf, command you that, if the judgment upon the writ of the error aforesaid hath been reversed, then the record and process aforesaid, with all things touching the same, and this writ, you distinctly and openly send to us in our parliament, at the next session, to be held on the 20th day of this instant month of July, that having inspected the record and process aforesaid, we may further cause to be done therein for correcting that error, (with the assent of the lords spiritual and temporal in the same parliament being,) what of right, and according to the law and custom of our kingdom of England shall be meet to be done. Witness Thomas, archbishop of Canterbury, and the other keepers and justices of the realm, at Westminster, the ——— day of ———, in the ——— year of our reign.

Charles the second, &c. To our beloved and faithful John Kelyng, knight, our chief justice, assigned to hold pleas before us, greeting: Because, in the record and proceedings, and also in the giving of judgment on a certain information in the court of Charles the first, late king of England, our dear father, before him the said late lord the king exhibited by R. H. knight, then attorney-general of him the said late lord the king, (who for the said lord the king in that behalf prosecuted,) against C. D. late of London, knight, E. F. late of London aforesaid, esquire, and G. H. late of London aforesaid, esquire, for divers misdemeanours, manifest error, as it is said, hath intervened, to the great damage of the said G. H. now lord H. baron of Ifield, as by his complaint we are informed, we being willing that the error,* if any there be, should be now duly corrected, and full and speedy justice be done to the said G. H. now lord H. baron of Ifield, in this behalf command you, that if judgment be thereupon given, then you distinctly and openly send the record and proceedings aforesaid, with all things touching the same, to us in our present parliament, and this writ, that, inspecting the record and proceedings aforesaid, we may further cause to be done thereupon, with the consent of the lords spiritual and temporal in the same parliament being, for correcting the errors thereof; what of right, and according to the law and custom of our kingdom of England shall be meet to be done. Witness ourself at

Writ of error
in parliament, on
judgment
obtained in
time of late
king (g)

[* 419]

Certiorari in
error, to C.
J. of K. d. to
remove in-
dictment.
(h)

Westminster, the 12th day of February, in the 20th year of our reign.

William the third, &c. To our trusty and well-beloved J. Holt, our chief justice assigned to hold pleas before us, greeting: being willing for certain reasons, to be certified on the tenor of the record and proceedings as well of the rendition of the judgment on a certain indictment against T. W. late of L. gent. deceased, for certain high treasons, touching the person of the lord Charles the second, late king of England, whereof he was indicted, and thereupon by a certain jury of the country thereon between the said late lord the king and the said T. W. taken before the justices of our said late lord the king assigned to deliver the gaol of Newgate for the city of London of the prisoners being in the same, was convicted, and judgment was thereupon given for the said late king against the said T. W. which said record and proceedings thereof, by reason of error happening, we have caused to be brought into our court before us; and we, in our said court before us, have reversed the judgment aforesaid for divers errors in the judgment and proceedings aforesaid found, which said record and proceedings afterwards we have caused to be brought before us, in our parliament, by reason of error happening, as it is alledged; and afterwards, in the same court of parliament, it was considered that the reversal of the judgment aforesaid should be in all things affirmed; and which said record and proceedings before us, in our same court before us, now remaining, as it is said, we command you that the tenor of the record and proceedings aforesaid, with all things touching the same, you distinctly and openly send to us, in our chancery, without delay, wheresoever we shall then be in England, under your seal and this writ. Witness Thomas Archbishop of Canterbury, and* the other keepers and justices of the kingdom at Westminster, in the 21st day of July, in the 9th year of our reign.

[* 420]

The answer of J. Holt, knight, the chief justice within written.

The tenor of the record and proceedings within written, with all things touching the same, I certify to the lord the king, in his chancery, in a certain schedule to this writ annexed, as I am within commanded.

J. Holt.

Writ of error on out-lawry. (i)

George, by the grace of God, of Great Britain, France, and Ireland king, defender of the faith, &c. To our justices appointed to hold pleas before us, greeting: Forasmuch as in the record and process, as also in the publication of an

(h) Lil. Ent. 238. It is not the present practice to issue any certiorari. Ante 1 vol. 749, n. b.

(i) 4 Burr. Rep. 2535. Ante 1 vol. 749, n. o.

outlawry against J. W. late of Westminster, in the county of Middlesex, esquire, on a certain information against the said J. W. for printing and publishing a certain libel or composition intituled an Essay on Woman, whereof the said J. W. is impeached, and thereupon by a jury of the county is convicted, as it is said manifest error hath intervened, to the great damage of the said J. W. as by his complaint we are informed. We, willing that the said error (if any there be) be duly amended, and full and speedy justice done to the said J. W. in this behalf, do command you, that if the said outlawry be returned before us as hath been said: then inspecting the said record and process, you cause further to be done therein for annulling the said outlawry as of right and according to the law and custom of England shall be meet to be done. Witness ourself at Westminster, the twenty-seventh day of April, in the eighth year of our reign.

By virtue of which said writ, the said chief justice brought with his own hands to our said lord the king in parliament being, the record aforesaid, according to the exigency of the said writ; and afterwards, that is to say, on the 8th day of March, in the 20th year of the reign of our lord the now king, Charles the second, before the said king in the present parliament comes the said G. H. now lord H. baron of Ifield, by ———, his attorney, and says, that in the record and proceedings aforesaid, and also in the giving of the judgment aforesaid, there is manifest error in this, to wit, that the words in the information aforesaid mentioned, were spoken and published in the commons house of parliament by the said G. H. now lord H., then being a burgess* for the borough of Dorchester in the then present parliament serving, and ought by the law of the land to be heard and determined in the commons' house of parliament, and not in the court of our lord the king; and in this, to wit, that by the information in the said record mentioned, the said G. H. now lord H. is charged with speaking and publishing certain words in the commons' house of parliament, and also with a trespass and assault made with force and arms, &c. upon John Finch, the speaker of the said then commons' house of parliament, to which the said G. H. now lord H. pleaded two separate pleas, yet only one judgment is given upon both by the court, and one fine, whereas there ought to have been two judgments given, and two fines imposed; because if perhaps cases of trespasses and assaults may or ought to be heard and determined in the court of our said lord the king, before the king himself, yet the speaking and publishing of any words in the commons' house of parliament by a burgess

Delivery of the record to Parliament, by virtue of a writ of error returnable there, and assignment of errors by defendant. Assignment of errors in parliament, on indictment for libel, that words were spoken in the Commons' House of Parliament, and therefore the offence, if any, could be determined there alone. (k) [* 421]

(k) Trem. 305. Ante 1 vol. and Pul. 356. 1 Lil. Ent. 241. 750. Hand. Prac. 470. 3 Bos. 4 Burr. 2536.

serving in the same parliament ought not to be heard or determined elsewhere than in the said parliament, &c.

Assignment
of general er-
rors in K. B.
(l)

And now, to wit, on Tuesday, on the octave of St. Martin, in this same term, before our said lord the king at Westminster, cometh the said M. in his proper person, who is committed to the marshal, &c., and he immediately saith, that in the record and process aforesaid, and also in the giving the judgment aforesaid, against him the said M., there is manifest error in this, to wit, that the indictment aforesaid, and the matter therein contained, are not sufficient in law to warrant the judgment against him now given, or to convict him of the trespasses, contempts, and forgeries aforesaid, therefore in that there is manifest error; there is also error in this, that by the said record it appears judgment upon the indictment aforesaid was given against him the said M. in form aforesaid, whereas judgment by the law of this realm of England ought to have been given for the said M. that he be thereof acquitted, and go thereupon without day, therefore in that there is manifest error; and the said M. prays that the judgment aforesaid, for the errors being in the record and process aforesaid, may be reversed and annulled, and absolutely be had for nothing, and that he may be restored to the common law of this realm, and to all things which he hath lost on the present occasion.

[* 422]

Assignment
of errors in
K. B. that it
does not ap-
pear that the
court had ju-
risdiction,
that the time
is not stated
when offence
was commit-
ted. (m)

And now, that is to say, on Monday, on the same morrow of St. Martin, in this same term, before our said lord the king at W. comes* the said A. S. by H. D. his clerk in court, and says that in the record and proceedings aforesaid, and also in the rendering of the judgment aforesaid, there is manifest error in this, to wit, that the said indictment does not contain any misdemeanour or offence which by the laws and statutes of this realm the said justices of the peace of our said lord the king, at their general quarter sessions of the aforesaid, had any authority or jurisdiction to hear and determine, wherefore in that there is manifest error; there is also error in this, that it does not appear from the said indictment at what time or place the said several pieces of iron therein mentioned were stolen, taken and carried away, wherefore in that there is manifest error; there is also error in this, that the judgment upon the indictment aforesaid is given for our said lord the king, whereas the said judgment by the laws of this realm ought to have been given against our said lord the king, and for the said A. S. in which there is manifest error; and this he is ready to verify:

(l) Hand's Prac. 476. 3 Lord Bos. and Pul. 356. 4 Burr. 2536.
Raym. 36. See the proceedings 1 Lil. Ent. 241.
in error, in civil cases, Tidd. App. (m) Lil. Ent. 241. Ante 1 vol.
579 to 653. Ante 1 vol. 950. 3 750, note s, &c.

wherefore he prays the judgment of the court here upon the premises, and that the judgment and proceedings aforesaid may be reversed and made void, and that the said A. S. may be restored to all things, which by reason of the judgment and proceedings aforesaid he hath lost, &c.

And now, that is to say, on Wednesday next, after fifteen days from the feast day of Easter, in this same term, before our said lord the king at W. comes the said R. H. by H. D. his clerk in court, and says that in the record and proceedings aforesaid, and also in the rendering of the judgment aforesaid, there is manifest error in this, to wit, that the said second count of the said indictment, whereof the said R. H. is found guilty as aforesaid, does not set forth any misdemeanour or offence which the said justice of the peace aforesaid had any authority or jurisdiction to hear and determine, therefore in that there is manifest error; there is also error in this, that it does not appear from the said second count of the said indictment, that the said J. D. the principal, was ever convicted of the felony wherewith the said R. H. appears to be charged as accessory before the fact, therefore in that there is manifest error; there is also error in this, that the judgment upon the said second count of the said indictment is given for our lord the king, whereas the said judgment by the laws of this realm ought to have been given for the said R. H. against our said lord the king, in which there is manifest error; and this the said R. H. is ready to verify, wherefore he prays judgment of the court here upon the premises, upon* the premises, and that the judgment aforesaid may be reversed and made void, and that he may be restored to all things, which by reason of the judgment and proceedings aforesaid he hath lost, &c.

Assignment of error in a judgment on an indictment for a misdemeanour, that by one of the counts it does not appear that the offence was within the jurisdiction of the court, and that it appears that defendant was indicted as accessory before the fact, when principal was not convicted. (n)

[* 423]

And hereupon the said I. C. one of the inhabitants of the said division of G. B. in the said parish of B. on behalf of himself and the rest of the inhabitants of the said division, cometh in his proper person and says, that in the record and proceedings aforesaid, and also in the giving the judgment aforesaid there is manifest error in this, to wit, that it does not appear, nor is it alledged or shewn in and by the said indictment, that part of the said king's common highway, which is alledged by the said indictment to be miry, ruinous, deep, broken, and in great decay, or any part thereof, is or lies within the said division of G. B. nor is it shewn or alledged in and by the said indictment that the inhabitants of the said division of G. B. have used and been accustomed, and of right ought to repair and amend the same, or in what right, for what cause, by what obligation, or upon

Assignment of errors for not shewing in the indictment on what account, or by what obligation the inhabitants of a division in a parish ought to repair the part of the highway indicted. (o)

(n) Hand's Prac. 474. Ante 1 vol. 750. Lil. Ent. 241. *Crim. Law.*
(o) Cro. C. C. 8th Ed. 192. Lil. Ent. 241. Ante 1 vol. 750. Vol. IV. 3 E

what account, the said inhabitants of the said division of G. B. ought to repair and amend the same; therefore in that there is manifest error. There is also error in this, that the judgment aforesaid, in form aforesaid, is given, that the inhabitants of the said division of G. B. do forfeit to the said lord the king, by occasion of the nuisance aforesaid, in the not repairing the king's highway aforesaid, the sum of one hundred and forty pounds; whereas by the law of the land judgment ought to have been given in the premises aforesaid for the said inhabitants of the said division of G. B. and that they should go thereof quit without day; and therefore in that there is manifest error; wherefore the said J. C. on behalf of himself and the rest of the inhabitants of the said division of G. B. prays that for the said errors above alledged, and for other errors appearing in the record aforesaid, the judgment aforesaid, in form aforesaid given, may be reversed, held void and of no effect, and that they may be restored to all they have lost thereby, and that the court here may proceed to examine the record and proceedings aforesaid, &c.

Joinder in error.

[* 424]

And the said J. B. who prosecutes for our said lord the king in this behalf, comes and says, that neither in the record and proceedings aforesaid, nor in giving the judgment aforesaid is there any error; and he prays that the said court of our said lord the now king, before the king himself here, may proceed to examine as* well the record and proceedings aforesaid, as also the several causes before assigned for error, and that the judgment aforesaid may in all things be affirmed, &c.

Assignment of error for not describing the part of the road presented, to be in the parish complained of, nor shewing the length and breadth of the part alledged to be out of repair. (p)

And hereupon the said sir W. H. baronet, one of the inhabitants of the said parish of H. on behalf of himself and the rest of the inhabitants of the said parish of H. comes in his own proper person and says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that it is not shewn in and by the said presentment, nor does it appear thereby, that the supposed highway mentioned in the said presentment, or the part thereof supposed to be in decay, lies in the said parish of H. or in any and what other parish, town, or place, nor is it shewn, nor does it appear, in and by the said presentment, by what right or obligation, or on what account the inhabitants of the said parish of H. are bound to repair the same supposed highway, or the part thereof supposed to be in decay: there is also error in this, that the length and breadth of the said highway supposed to be in decay are not mentioned and ascertained in the said presentment; therefore in that there is manifest error; there is

also error in this that the judgment aforesaid, in form aforesaid given, is given that the inhabitants of the said parish of H. do forfeit to the said lord the king, by the occasion of the nuisance aforesaid, in not repairing the said part of the said highway, the sum of twenty pounds; whereas by the law of the land judgment ought to have been given in the premises aforesaid for the said inhabitants of the said parish of H. and that they should go thereof quit without day; and therefore in that there is manifest error; wherefore the said sir W. H. on behalf of himself and the rest of the inhabitants of the said parish of H. prays, that for the said errors above alleged, and for other errors appearing in the said record, the judgment aforesaid, in form aforesaid given, may be reversed, held void, and of no effect, and that they may be restored to all they have lost thereby, and that the court here may proceed to examine the record and proceedings aforesaid, &c.

And hereupon the said J. W. comes in his proper person and says, that in the record and process, and also in the publication of the aforesaid outlawry, there is manifest error in this, that there is no sufficient information filed or exhibited against the said J. W. whereon to ground the process of the outlawry aforesaid; by reason whereof, the said outlawry is void and of no effect* or force whatsoever. There is also error in this, that no public proclamation whatsoever is mentioned to have been at any open county court, or at any general quarter sessions of the peace whatsoever, or at the door of any parish church where the said J. W. was an inhabitant according to the exigency of the said writ of capias cum proclamatione; therefore in that there is manifest error. There is also error in this, that it is not shewn nor does it appear by the return of the sheriff of Middlesex that the sheriff of Middlesex did cause to be exacted the said J. W. in the said county of Middlesex, from county court to county court, until he was outlawed according to the law and custom of England, as the said sheriff by the said writ of exigent is commanded; and that it is not shewn nor does it appear by the return of the sheriff of Middlesex that the said J. W. was a first, second, third, fourth, and fifth time exacted at the county court of the county of Middlesex, as by the law of the land he ought to have been before he was outlawed; therefore in that there is manifest error. There is also error in this, that in the record and process aforesaid, and in the publication of the outlawry aforesaid, it is no where expressly shewn that the place called Brook-street, (if any such there be) where the several county courts are supposed to have been held, at which the said J. W. is said to have been exacted, is in the

Assignment
of error in
outlawry,
that no suf-
ficient infor-
mation has
been exhibi-
ted to
ground the
process
upon, that it
does not ap-
pear that
proclamation
has been
made at the
church. (g)
[* 425]

(g) Ante 1 vol. 750, n. s. 4 Burr. 2536.

county of Middlesex or in any or what other county; therefore in that there is manifest error. There is also error in this, that it does not appear that any judgment of outlawry was given or pronounced against the said J. W. or if any such judgment was given or pronounced, in what form the same was so given or pronounced, as it ought to have done, in order that the legality and propriety of the said judgment might have been seen and examined; but in the record and process aforesaid, and in the publication of the outlawry aforesaid, reference and relation only are had to some judgment not shewn or expressed, but supposed to have been before given against the said J. W.; therefore in that there is manifest error. Wherefore the said J. W. prays that the outlawry aforesaid, for the errors aforesaid, and other errors appearing in the record and process aforesaid, may be reversed and held for nothing; and that he may be restored to the common law, and to all which he hath lost by occasion of the outlawry aforesaid, &c. And William De Grey, esquire, now attorney-general of our present sovereign lord the king, present here in court in his proper person, having heard the matters aforesaid above assigned for error for our said lord the king saith, that neither in the record and process aforesaid, nor in the publication of the aforesaid outlawry,* is there any error, and he prays that the court of our said lord the king, now here, may proceed to the examination as well of the record and process aforesaid, as of the matters aforesaid above assigned for error; and that the outlawry aforesaid may in all things be affirmed.

[* 426]

Assignment
of errors on
indictment
for not re-
pairing
bridge. (r)

That by the record aforesaid it appears that the said inhabitants of the said county of Cumberland are indicted and convicted not only for that the said common public bridge, in the said indictment mentioned, was broken, ruinous, and in decay for want of due reparation and amendment of the same, but also for that the said common public bridge was over narrow, and the battlements of the same bridge were not of a sufficient height to guard and preserve the subjects of our said lord the king, passing, riding, and travelling upon and over the said bridge from going and falling over the said battlements into the said river Ellen, although no obligation was on it laid or charged upon the said inhabitants of the said county of Cumberland in or by the said indictment, nor are they by law bound to widen the said bridge or to raise or heighten the battlements thereof. There is also error in this, to wit, that by the record aforesaid it appears that our said lord the king, for certain reasons caused the said indictment to be brought before him to be determined, and that the same was accordingly determined in and by the said

(r) 3 Bos. and Pul. page 356. Ante 1 vol. 750, n. s.

court of our said lord the king before the king himself, although by law and according to the form of the statute in such case made and provided, the said indictment ought not to have been removed out of the said county of Cumberland into the said court of our said lord the king before the king himself, but ought to have been determined in the said county of Cumberland and not elsewhere. For that the judgment aforesaid, in form aforesaid given, appears to have been for our said lord the king against the said inhabitants of the said county of Cumberland, whereas by the law of the land the said judgment ought to have been given for the said inhabitants of the said county of Cumberland, and they ought to have been acquitted of the premises in the said indictment mentioned.

The king against A. S.

L. W. of M. in the county of L. gentleman, maketh oath and saith, that he did on the 7th day of November instant, personally serve Mr. N. M. one of the attorneys for the prosecutors in this case,* with a true copy of the rule and assignment of errors hereunto annexed, and at the same time shewed to him the said original rule.

Sworn by the deponent L. W., at M.

aforesaid, the 17th day of November, 1798, before me

L. W. H. C. R.

A commissioner, &c.

And hereupon J. T., esquire, coroner and attorney of our said lord the king, in the court of our said lord the king before the king himself, who for our said lord the king in this behalf prosecuteth, comes and having heard the matters aforesaid above assigned for error in manner and form aforesaid, says, that in the record and proceedings aforesaid, and also in the rendering of judgment aforesaid, there is not any error: therefore the said J. T. prays that the said court of our said lord the king may proceed to examine as well the records and proceedings aforesaid, and the judgment aforesaid, in form aforesaid given, as the matters aforesaid above assigned for errors, and that the judgment aforesaid, in form aforesaid given, may in all things be affirmed.

And J. T., esquire, coroner and attorney of our said lord the king, in the court of our said lord the king before the king himself, who for our said lord the king in this behalf prosecuteth, being present here in court, and having heard the matters aforesaid for error above assigned in manner and form aforesaid, for our said lord the king saith, that neither in the record and proceedings aforesaid, nor in giving the

Affidavit service rule to join in error, &c. (s)

[* 427]

Joinder in error, in K. B. (t)

Joinder in error. (u)

(s) Hand's Prac. 471. Ante 750.

1 vol. 750.

(u) Hand's Prac. 471. Lik

(t) Lil. Ent. 243. Ante 1 vol. Ent. 243. Ante 1 vol. 750.

judgment aforesaid, is there any error: therefore the said coroner and attorney of our said lord the king, for our said lord the king prayeth that the said court of our said lord the king, now here, may proceed to examine as well the record and proceedings aforesaid, and the judgment thereon given as aforesaid, as the matters above assigned and alledged for error, and that the judgment aforesaid may in all things be affirmed.

Joinder in
error. (x)

[* 428]

And the said sir A. M., knight, attorney-general of our present sovereign lord the king, present here in court in his proper person, having heard the matters aforesaid above assigned for error, for our said lord the king saith, that neither in the record and process aforesaid, nor in the publication of the aforesaid outlawry, is there any error; and he prays that the court of our said* lord the king now here, may proceed to the examination as well of the record and process aforesaid, as also of the several causes aforesaid above assigned for error, and that the outlawry aforesaid may in all things be affirmed.

Rule for a
concilium.
(y)

_____ next after,
in the 56th year of king George the third.
The King } _____ next after is appointed to hear the coun-
v. sel on both sides. Upon the motion of Mr. _____.
C. D. } By the court.

Petition for a
king's coun-
sel, to argue
the errors.
(z)

To the king's most excellent majesty.
The humble petition of Mr. G.

Sheweth,
That your petitioner is plaintiff in error in a cause in your majesty's court of king's bench, wherein your majesty on the prosecution of Z. E. is defendant.

That your petitioner hath advised with V. G., esquire, one of your majesty's counsel learned in the law, but for as much as he cannot plead in the cause without your majesty's royal licence to the said V. G., esquire, to be of counsel for him therein.

Your petitioner therefore most humbly prays your majesty will be graciously pleased to dispense with the said V. G., and grant him your royal licence to be of counsel for your petitioner in the said cause as often as there shall be occasion.

And your petitioner shall ever pray, &c.

Notice of the
argument.
(a)

In the King's Bench.
The King on the prosecution of R. P. and others against A. S.
Take notice that this honourable court has been moved on

(x) Hand's Prac. 479. Lil.
Ent. 243. Ante 1 vol. 750.

(y) Ante 1 vol. 751. Hand's
Prac. 49.

(z) Hand's Prac. 473. Ante 1
vol. 751.

(a) Hand's Prac. 473. Ante 1
vol. 751.

the part of the above named defendant, to appoint a day for hearing the counsel between the parties on the writ of error, brought by the said defendant to reverse the judgment in this prosecution; and that the same will be heard before the said court on Saturday next, the twenty-fourth instant, dated the twentieth day of November, one thousand seven hundred and ninety-eight.

Your's, &c.

J. F. defendant's agent.

To M. S. agent for the prosecution.

Pleas before our lord the king at Westminster, of Michaelmas term,* in the thirty-ninth year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c. Paper book in error. (b) [* 429]

Amongst the pleas of the king. Roll.

Lancashire. Our lord the king hath sent to his keepers of the peace in his county of Lancaster, and to his justices appointed to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, his writ closed in these words, (here follows the writ of error with the proceedings returned thereon, and then the assignment of the error and joinder thereon.)

In the King's Bench.

The King on the prosecution of R. P. and others against A. S. Notice of the further argument. (c)

Take notice, that the writ of error brought by the above named defendant, to arrest the judgment given in the above mentioned prosecution will be further argued before this honourable court, on Wednesday, the sixth day of February next.

Dated the thirty-first day of January, one thousand seven hundred and ninety-nine.

Your's, &c.

J. F. defendant's agent.

To Mr. S. agent for the prosecution.

And A. B. knight and baronet, attorney general of our lord the now king, who for the said lord the king in this behalf prosecutes, present in his own person for the said lord the king, says that neither in the record and process aforesaid, nor in the rendering of the judgment aforesaid is there error, and he prays, &c. And because the court of parliament is not yet advised what judgment to give of and upon the premises, a day is given, as well to the said A. B. knight and baronet, who prosecutes, &c. as to the said D—— Lord D——, until ——, then next following at Westminster, in the county of Middlesex, to hear its judgment thereupon, Plea of, in nullo est erratum by the attorney general, with continuance by cur. adv. vult. and judgment of the King's Bench reversed.

(b) Hand's Prac. 472. Ante 1 vol. 751.

(c) Hand's Prac. 474. Ante 1 vol. 751.

[* 430]

Reversal of
judgment,
and attain-
der. (d)

for that the court is not yet, &c. At which day, before the court aforesaid, come as well the said A. B. who prosecutes, &c. as the said D—— Lord D——, in their proper persons. Upon which all and singular the premises being seen, and by the said court now here fully understood, and mature deliberation being thereupon had, it is considered by the court that the judgment aforesaid for the errors aforesaid, and others in the record and proceedings aforesaid found, be reversed, annulled, and altogether held for nothing, and that the said D—— Lord D—— should be restored* to all things, which he, the said D—— Lord D—— has lost on occasion of the judgment aforesaid.

Whereupon all and singular the premises being seen, and by the court here understood, and the record and proceedings aforesaid, and the errors aforesaid by the said C. D. above assigned, and others in the record and proceedings aforesaid, found, and being diligently examined, and mature deliberation being thereupon first had, it is considered that the judgment aforesaid for the errors aforesaid, and others in the record and proceedings aforesaid found and being, be reversed, annulled, and held as entirely void, and that the said E. F. the son and heir of the said C. D. be restored to all things which he, the said E. F. by reason of the judgment and attainder aforesaid hath lost, and that the said E. F. may go thereof without day, &c.

Affirmance
in parlia-
ment of a re-
versal of
judgment,
and return of
the writ of error,
&c. into K. B.
(e)

Whereupon all and singular the premises being seen, and by the same court of parliament now here fully understood, and mature deliberation being thereupon had, because it seems to the court of parliament now here, that neither in the record and proceedings aforesaid on the said former writ of error, nor in the giving of the said judgment of reversal of the judgment on the indictment aforesaid there is any error, and that that record is in nothing vitious or defective in law, it is considered by the same court of parliament now here, that the said judgment of reversal of the judgment aforesaid be in all things affirmed, and remain in its full force and effect, the said causes and matters above for error assigned in any wise notwithstanding; which said record and proceedings before the said lord the king, and the peers of this kingdom of England, so had by the same court of parliament before the said lord the king into the court of the said king, before the king himself wheresoever, &c. are remitted.

In the House of Lords.

Case and
reasons in
error, in
House of
Lords. (f)

The inhabitants of the county of Cumberland
v.

our sovereign lord the king in error.

(d) Lil. Ent. 242. Ante 1. 754.
vol. 754.

(f) 3 B. and P. 354. Ante
(e) Lil. Ent. 243. Ante 1 vol. 1 vol. 750, n. s.

The record in this case stated that at the general sessions of oyer and terminer of our lord the king, held at Carlisle, in and for the county of Cumberland, on the twenty-sixth of August, 31 George the third, an indictment was preferred and found, wherein it was presented as follows, that is to say, the jurors, &c. (*here state the indictment verbatim.*

Which* said indictment our said lord the king afterwards for certain reasons caused to be brought before him to be determined according to the law and custom of England, and two of the inhabitants of the said county having appeared and pleaded thereto the general issue, and put themselves upon the country, and the king's coroner and attorney having done the like, and issue being joined, the said indictment came on to be tried at the assizes held at the city of Carlisle, on the tenth day of August, 1792, before Thomson, B. by a jury of the county of Cumberland, when the plaintiffs in error were found guilty of the premises charged upon them by the said indictment, in manner and form as by the said indictment was alledged. Whereupon in Trinity term, 1795, the court gave judgment, and adjudged that the plaintiffs in error for the trespasses, contempts, and nuisances whereof they were indicted and convicted as aforesaid, should pay a fine of three hundred and fifty pounds; and that the said fine should be levied and paid into the hands of the treasurer of the said county, to be applied pursuant to the direction of the statute in such case made and provided. [* 431]

On this judgment the plaintiffs brought a writ of error, and assigned the following errors:—1st. That by the record aforesaid it appeared that the said inhabitants, &c. (*here state the errors first assigned.*) 2nd. That by the record aforesaid it appears that, &c. (*here state the errors assigned secondly.*) 3d. For that the judgment aforesaid in form aforesaid, given, (*here state the errors thirdly assigned.*)

The king's coroner and attorney thereupon rejoined that there was no error in the said indictment and record which the plaintiffs insisted that there was, and humbly hoped that the judgment of the court of king's bench would be reversed for the following amongst other reasons:—

1st. Because the judgment given for so large a fine as three hundred, &c. (*here state reasons first assigned.*)

2d. The statute 1 Ann, st. 1. c. 18, s. 5, expressly enacts that all matters, &c. (*here state reasons secondly assigned, and then the counsels' names for the plaintiffs in error are stated as follows.*)

T. Erskine.
G. Wood.

The king's coroner and attorney hoped that the judgment would be affirmed for the following amongst other reasons:—

1st. The obligation upon the inhabitants of a county to repair, &c. (*here state reasons first assigned.*)

[* 432] 2d. The objection to the removal of the record by certiorari rests,* &c. (*here state reasons secondly assigned,*) and then the king's coroner's and attorney's names are stated as follows.

Edward Law.

A. Chambre.

Record of indictment for usury, and plea and award of jury process at Hicks' Hall, Middlesex. General errors assigned and prayer of judgment thereupon. (g)

After caption of sessions and indictment, the record runs thus: Wherefore the sheriff of the county of Middlesex is commanded, that he do not omit, &c. but that he cause the said Dorothy Smith to come to answer, &c. upon which afterwards, to wit, at the same general quarter sessions of the peace of the said lady the queen, held for the county aforesaid, at Hicks's Hall aforesaid, in the county aforesaid, on the said Friday the 12th day of January, in the third year of the reign of the said lady the queen above said, before the said justices of the said lady the queen, and others their fellows aforesaid, cometh the said Dorothy Smith in her proper person, and having heard the indictment aforesaid, the same Dorothy saith, that she is not guilty thereof, and of this she puts herself upon the country; and Simon Harcourt, esq. clerk of the peace of the county aforesaid, who prosecutes for the said lady the queen in this behalf, likewise, &c. therefore let a jury thereupon come before the justices of the said lady the queen, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, and who, &c. to recognize, &c. because, &c. the same day is given as well to the said Simon Harcourt who prosecutes, &c. as to the said Dorothy Smith here, &c. whereupon at the next general sessions of the peace, to wit, at the general sessions of the peace of the said lady the queen, holden for the county aforesaid, at Hicks's Hall aforesaid, in St. John street aforesaid, in the county aforesaid, to wit, on the 26th day of February, in the third year of the reign of the said lady the queen above said, before Joseph Offley, John Herbert, John Bond, John Crosbie, Benjamin Hilton, esquires, and others their fellows, justices of the said lady the queen, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanours committed in the same county, come as well the said Simon Harcourt who prosecutes, &c. as the said Dorothy Smith in their proper persons, and the jurors of the jury impanelled by the said sheriff for this purpose, to wit, Nathaniel Chandler, William Gunson, Robert Moore, William Giles,

Robert Wheely, Edward Reynolds, Edward Hampsted, John Searle, William Ashman, Benjamin Mills, Richard Winch, and* William Weaver being called come, who being cho- [* 433]
 sen, tried, and sworn to speak the truth of and concerning the premises aforesaid, say upon their oath, that the said Dorothy Smith is guilty of the premises aforesaid in the indictment aforesaid above specified, above laid to her charge, in manner and form as by the indictment aforesaid is above supposed against her; whereupon all and singular the premises being seen and understood by the court here, it is considered by the court here that the said Dorothy Smith do pay to the said lady the queen the sum of 15*l.* for her fine by the court here above laid upon her, according to the form of the statute in that case made and provided, for and by reason of the premises whereof she the said Dorothy Smith be taken, &c. which said Dorothy Smith being present here in court, by the court aforesaid is committed to the new prison of the said lady the queen at Clerkenwell aforesaid, in the county aforesaid, there to remain until she shall pay the fine aforesaid, &c. And now, to wit, on Saturday next after one month of Easter, in this same term, before the said lady the queen at Westminster, cometh the said Dorothy Smith in her proper person, who is committed to the said marshal, &c. and she immediately saith, that in the record aforesaid against her the said Dorothy Smith there is manifest error in this, to wit, that the indictment aforesaid against her, and the matter in the same contained, are not sufficient in law to warrant the judgment against her now given, or to convict her of the trespass and offence aforesaid, therefore in that there is manifest error; there is also error in this, to wit, that where by the record aforesaid it appears, that judgment upon the indictment aforesaid was given against her the said Dorothy Smith in form aforesaid, that judgment by the law of this realm of England ought to have been given for the same Dorothy, that she be thereof acquitted and go thereupon without day, therefore in that there is manifest error; and the said Dorothy prays that the judgment aforesaid, for the errors being in the record and process aforesaid, may be reversed and annulled, and absolutely be had for nothing, and that she may be restored to the common law of this realm of England, and to all things which she hath lost upon the aforesaid occasion.

Pleas before the lord the king at Westminster of Easter term, in the 7th year of the reign of the lord William the third, now king of England, &c.

Among the pleas of the crown, Roll 3.

London, to wit. The lord the king sent to his justices by his letters patent made under the great seal of England, to enquire by the oath of good and lawful men of the city of London, and other ways, methods, and means whereby

Record in error. Writ of error into chancery on judgment for high treason, reversed for want of words ipso vivente,

[* 434] they could or might better* know of all treasons, mispri-
 which rever- sons of treason, insurrections, rebellions, and other misde-
 sal was after- meanours, offences, and injuries whatever, and also to his jus-
 wards affirm- tices assigned to deliver his gaol of N. for the city of Lon-
 ed by parlia- don of the prisoners being in the same, and to every of
 ment of Ire- them, his writ closed in these words, to wit, William, &c.
 land, on er- To our justices by our letters patent made under the great
 ror brought seal of England to enquire by the oath of good and lawful
 there, and men of the city of L., and other ways, methods, and means
 restitution whereby they could or might better know of all treasons,
 awarded, on misprisions of treason, insurrections, rebellions, and other
 which ano- misdemeanours, offences, and injuries whatever, and also to
 ther writ of our justices assigned to deliver our gaol of Newgate, for
 error is the city of L., of the prisoners being in the same, and to
 brought into every of them, greeting: because in the record and proceed-
 K. B. on ings, and also in the rendition of the judgment of a certain
 ground that indictment against T. W., late of L., gent., deceased, for
 Irish justices certain high treasons touching the person of the lord Charles
 exceeded the second, late king of England, whereof he is indicted,
 their jurisd- and thereupon by a certain jury of the county thereon, be-
 diction in tween the said lord the late king, and the said T., taken be-
 awarding re- fore the justices of the said lord Charles the second, late
 stitution. (h) king of England, &c. assigned to deliver the gaol aforesaid,
 Writ of is convicted, and judgment is thereon given, as it is said
 error to re- manifest error hath happened to the great damage of T.
 move the in- W., son and heir of the said T., as by his complaint we have
 dictment in- understood; we being willing the error, if any hath been,
 to Chancery. should be duly corrected, and full and speedy justice done to
 the said John in this behalf, command you, if judgment be
 given, then the record and proceedings aforesaid, with all
 things touching the same, to us under your or one of your
 seals, you distinctly and openly send, and this writ, so that
 we may have them from the day of Easter in three weeks,
 wheresoever we shall then be in England, that the record
 and proceedings aforesaid being inspected, we may farther
 cause to be done therein, to correct that error, what of right
 and according to the law and custom of our kingdom of
 England shall be to be done. Witness ourself at Westmin-
 ster, 16th day of March, in the 7th year of our reign. The
 execution of this writ appears in a schedule and record to
 this writ annexed.

The commis-
 sion of oyer
 and termi-
 ner.

The answer of Thomas Lane, knight, mayor of the city of
 London, and one of the justices within written.

The record and proceedings, whereof in the writ aforesaid,
 mention is made, follows in these words, to wit: Be it remem-
 bered, that by a certain inquisition taken for the most serene
 lord the king,* at justice hall, in the Old Bailey, London, in

[* 435]

the parish of St. Sepulchre, in the ward of F. without London aforesaid, on Thursday, to wit, the 12th day of July, in the 35th year of the reign of our lord Charles the second, by the grace of God, of England, &c. before W. P. knight, mayor of the city of London, F. P. knight, chief justice of the said lord the king of the bench, &c. justices of the said lord the king, assigned to hold pleas before the king himself, &c. Henry Tulse, knight, James Smith, knight, &c. aldermen of the said city and their companions, justices of the said lord the king, by the letters patent of the said lord the king to the same justices before named, and any four or more of them, under the great seal of the said lord the king of England, made to enquire by the oath of good and lawful men of the city of London, and other ways, methods, and means whereby they could or might better know, as well within liberties as without, by whom the truth of the fact they might the better know, and enquire of all treasons, misprisions of treasons, insurrections, rebellions, counterfeitings, clippings, washings, false coinings, and other falsities of the monies of this kingdom of England, or other kingdoms or dominions whatever, and of all murders, felonies, homicides, killings, burglaries, rapes, unlawful congregations and conventicles, speaking of words, combinations, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champarties, deceits, and other misdemeanours, offences, and injuries whatever, and also the accessaries of the same, within the city aforesaid, as well within liberties as without, by whomsoever and howsoever had, done, perpetrated, or committed, by whom or to whom, when, how, and in what manner, and of other articles and circumstances, the premises, and every of them howsoever, concerning more fully the truth, and the same treasons and other the premises to hear and determine according to the law and custom of the kingdom of the said king of England, assigned by the oath of R. A. esquire, R. P. &c. good and lawful men of the city of L. aforesaid; it is presented that T. W. late of L. [*here follows indictment for high treason.*] Wherefore the sheriffs of the city aforesaid were commanded that they should not omit, &c. but should take the said T. W., if, &c. to answer, &c. And now, to wit, at the gaol delivery of the said lord the king of N. held for the city of L. at justice hall aforesaid, in the said parish of St. S. in the ward of F. without, London aforesaid, the said Thursday the 12th day of J. in the 35th year aforesaid, before the said W. P. knight, mayor of the city of L., J. P. knight, chief justice, &c. another justice of the said lord the king assigned to hold pleas before* the king himself, W. T. knight, J. E. knight, &c. aldermen of the said city, and others their companions, and justices of the said lord the king, assigned to

deliver his gaol of N. of the prisoners being in the same, to the said justices of the said lord the king before named, by their own proper hands, delivered the indictment aforesaid here in court of record, in form of law to be determined, &c. Whereupon at this same gaol delivery of the said lord the king of N. held for the city aforesaid, at justice hall aforesaid, the said Thursday 12th day of July, in the 35th year abovesaid, before the said justices last mentioned, comes the said T. W. under the custody of N. D. knight, and P. R. knight, sheriffs of the city aforesaid, into whose custody for the cause aforesaid he was before committed, to the bar here brought in his proper person, who is committed to the said sheriffs of L. &c. and immediately of the premises aforesaid, in the indictment aforesaid specified on him above charged, is asked how he would thereof acquit himself; the same T. W. says that he is not thereof guilty, and thereof of good and ill he puts himself on the country; therefore immediately let a jury thereon come, &c. before the said justices last named here, &c. And the jurors of that jury, by the said sheriffs hereto impanelled, to wit, N. C. &c. being called come, who to say the truth of the premises being elected, tried, and sworn, say, on their oath, that the said T. W. is guilty of the high treason aforesaid, in the indictment aforesaid specified, upon him above charged, in manner and form as by the indictment aforesaid above against him is supposed, and that the same T. W. had no goods or chattels, or tenements to their knowledge; and hereupon the said T. W. is immediately asked, if he has or knows any thing to say for himself why the court of the said lord the king here should not proceed to judgment and execution thereof upon the verdict aforesaid, who nothing farther says than as before he had said. Whereupon all and singular the premises being seen, and by the court here fully understood, it is considered by the court here, that the said T. W. be carried to the gaol of the said lord the king of N. from whence he came, and there be put on a hurdle, and from thence to the gallows at Tyburn drawn, and there by the neck be hung and cut down alive to the ground, and that his privy members be cut off, and his entrails be taken out of his belly and put into the fire and be there burnt, and that his head be cut off, and that his body be divided into four quarters, and that the head and those quarters be put where the lord the king will appoint them, &c. Wherefore the sheriffs are commanded, that they take him if, &c. to satisfy, &c. And now, to wit,

[* 437] Thursday,* next, after a month of Easter in this same term, before the lord the now king at Westminster, comes one J. W., the son and heir of the said T. W., deceased, of the high treason aforesaid, and convicted and attainted, by A. B., his attorney, and having heard the record aforesaid, on which

The heir ap- the said T. in form aforesaid is convicted and attainted,

Pleads not
guilty.

And is found
guilty.

The judg-
ment.

*In his sight,
and he living,
omitted, and
therefore re-
versed.*

says, that in the record and proceedings aforesaid, and also ^{appears and as-} in the rendition of the judgment aforesaid, there is manifest ^{signs error.} error, in this, to wit, that it appears by the record aforesaid, that the judgment aforesaid is given for the said lord the late king, when by the laws of this kingdom of England the judgment aforesaid ought to have been given for the said T. W., and in that it is manifestly erroneous; there is error also in this, to wit, that the crimes in and by the indictment aforesaid, against the said P. W. charged, are by the laws of this kingdom of England uncertainly, doubtfully, and too generally alledged, and that the said indictment supposes, and on the same T. charges and imposes crimes in a differ- ^{The sen-} ent manner, and entirely in themselves disagreeing, and that ^{tence not} the judgment thereon given is contrary to the law of Eng- ^{pursuant to} land, and not to be pronounced, or set for or upon such ^{the laws of} crimes as in the indictment aforesaid are supposed, and that ^{the land.} it is manifestly erroneous; wherefore he prays the judgment of the court here in the premises, and that the judgment and attainder aforesaid, for the errors aforesaid, and others, in the record and proceedings aforesaid found and being, may be reversed, annulled, and held as entirely void; and that the said T. W., the son and heir of the said T., may be restored to all things which he the same T., by reason of the judgment and attainder aforesaid, hath lost; and that the court here may proceed to the examination as well of the record and proceedings aforesaid as of the matters above, for errors assigned, &c. And because the court of the lord the ^{Continuance.} king here are not yet advised to give their judgment of and upon the premises, day therefore is given to the said T. W., in the state as now, &c. until on the morrow of the holy Trinity, before the lord the king wheresoever, &c. to hear their judgment thereon, &c. On which said morrow of the holy Trinity, before the lord the king at Westminster, comes the said T. W., by his attorney aforesaid, and as before prays judgment, and that the judgment and attainder aforesaid, against the said T. W. given, for the errors aforesaid, and others in the record and proceedings aforesaid found and being, may be reversed, annulled, and held as entirely void, and that he the said T. W., the son and heir of the said T., may be restored to all things which he the said T., by reason of the judgment and attainder aforesaid* hath lost, [^{* 438}] and that the court here may proceed to the examination as well of the records and proceedings aforesaid as of the matters aforesaid above, for errors assigned, &c. And because the court of the lord the king here are not yet advised to give their judgment of and upon the premises, farther day therefore is given to the said T. W., until ———, before the said lord the king, wheresoever, &c. to hear their judgment thereon, &c. On which day,—before the lord the king at Westminster, comes the said T. W. by his attorney afore-

Judgment
reversed.

Writ of error
in Parlia-
ment.

[* 439]

said, and as before prays judgment, and that the judgment and attainder aforesaid, for the errors aforesaid, and others in the record and proceedings aforesaid, found and being, may be reversed, annulled, and held as entirely void ; and that the said T. W., the son and heir of the said T. W., may be restored to all things which he the said T. W., by reason of the judgment and attainder aforesaid, hath lost ; and that the court of the lord the king here may proceed to the examination as well of the record and proceedings aforesaid as of the matters above, for errors assigned, &c. Whereupon all and singular the premises being seen, and by the court here understood, and the record and proceedings aforesaid, and the errors aforesaid by the said T. W. above assigned, and others in the record and proceedings aforesaid found and being, being diligently examined, and mature deliberation being thereon first had, it is considered that the judgment aforesaid, for the errors aforesaid, and others in the record and proceedings aforesaid found and being, be reversed, annulled, and held as entirely void ; and that the said T. W., the son and heir of the said T. W., be restored to all things which he the said T. W., by reason of the judgment and attainder aforesaid, hath lost ; and that the said T. W. may go thereof without day, &c. Afterwards, to wit, the sixth day of July in the eighth year of the reign of the lord Will^{am} the third, king of England, &c. the lord the king sent to J. Holt, knt. chief justice of the said lord the king, assigned to hold pleas before the king himself, his writ close in these words, to wit, William the third, &c. to our trusty and well-beloved J. Holt, knt. our chief justice assigned to hold pleas before us : Because in the record and proceedings, as also in the rendition of the judgment of a certain indictment against T. W., late of London, gent., now deceased, for certain high treasons, touching the person of the lord Charles the second, the late king of England, whereof he was indicted, and thereupon, by a certain jury of the country thereon between the said late king and the said T. W., taken before the justices of the said late king assigned to deliver the gaol being convicted, and judgment thereupon* was given for the said late king against the said T. W. as it is said, which said record and proceedings aforesaid, by reason of error happening, we have caused to be brought into our court before us, and the judgment thereof in our same court before us, is reversed ; and because in the reversal of the judgment aforesaid before us, on the writ of error aforesaid, a manifest error hath happened, to the great damage of one Isabel Dillon, widow, countess of R. in our kingdom of Ireland, as by her complaint we have understood ; we, willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the same Isabel in this behalf, command you, that if the judgment on the writ of error afore-

said be reversed, then you send the record and proceedings aforesaid, with all things touching them, to us, in our parliament at the next session, 28th day of this instant month of July to be held, and this writ, that the record and proceedings aforesaid being inspected we may farther cause to be done therein, with the assent of the lords spiritual and temporal being in the same parliament, what of right and according to the law and custom of our kingdom of England shall be to be done. Witness Thomas, archbishop of Canterbury, and the rest of the keepers and justices of the kingdom, at Westminster, 6th day of July, in the 8th year of our reign. By virtue of which said writ the said chief justice the record and proceedings aforesaid, with all things touching them, to the said lord the king, in the present parliament, with his own proper hands produced, according to the command of the said writ; and hereupon T. Trevor, knight, the attorney-general of the lord the now king, who for the same lord the king in this behalf prosecutes, before the lord the king and the peers of this kingdom of England, in this present parliament at Westminster, in the county of Middlesex, assembled in his proper person comes and says that, in the record and proceedings, and also in the rendition of the judgment upon the said former writ of the said lord the king to correct error, by the said T. W. prosecuted, for reversing and annulling of the judgment aforesaid against the said T. W. on the indictment aforesaid, for the high treason aforesaid given, there is manifest error in this, to wit, that where, by the record aforesaid, it is supposed that the said T. W. did put in his place one A. B. his attorney, to prosecute the said former writ of error, in and upon the indictment for the high treason aforesaid, nevertheless the said A. B. had no warrant of attorney for the same T. W. filed of record; therefore in that there is manifest error. There is error also in this, to wit, that by the record aforesaid it appears that the judgment aforesaid for the reversing and annulling of the judgment* aforesaid against the said T. W. in form aforesaid given, was given for the said T. W. against the said lord the king, when by the law of the land of this kingdom of England, that judgment ought to have been given for the said lord the king against the same T. W. therefore in that there is likewise manifest error; and this he is ready to verify: wherefore he prays judgment, and that that judgment, for the errors aforesaid and others being in the record and proceedings aforesaid may be reversed, annulled, and held as entirely void; and that the said lord the king to all things, which he by reason of the reversing and annulling of the judgment aforesaid hath lost, may be restored, &c. And the said T. Trevor, knight, the attorney general of the lord the now king, who for the same lord the king in this behalf prosecutes, prays a writ of the

Return of the C. J. of the record with his own hands into parliament.

The attorney general assigns errors.

No warrant of attorney.

[* 440]

**Certiorari to
the C. J. of
the king's
Bench.**

**Who certi-
fies there is
no warrant of
attorney.**

**In nullo est
erratum.**

Continuance.

[* 441]

**Judgment to
affirm the
judgment of
reversal.**

said lord the king to the said J. Holt, knight, to certify the same lord the king here in the same court of parliament in the premises more fully the truth thereof; and it is granted him: whereby the said J. Holt, knight, the chief justice aforesaid, is commanded, that searching the files of the same court of the lord the king before the king himself, whether any warrant of attorney be filed of record in the court of the lord the king before the king himself for one A. B. to prosecute a writ of error for the reversal of the judgment of a certain indictment against T. W. now deceased, for certain high treasons whereof he is indicted, and thereupon is convicted to the said lord the king here in the present parliament of this kingdom, he without delay doth certify; which said J. Holt, knight, the chief justice aforesaid to the said lord the king here in the present parliament hath returned and certified, that searching the files of the court of the said lord the king before the king himself of record there no warrant of attorney for the said A. B. to prosecute the writ of error aforesaid for the reversal of the judgment aforesaid is filed, as by the writ aforesaid he is commanded: whereupon the said T. W. afterwards, to wit, on the twenty-sixth day of November, in the eighth year of the reign of the said lord the now king above said in his proper person before the said lord the king, and the peers here in the present parliament assembled freely comes, and oyer being had of the errors aforesaid, immediately says, that neither in the record and proceedings, aforesaid upon the said former writ of error, nor in the rendition of the judgment aforesaid for the reversal of the said judgment against the said T. W. for the high treasons aforesaid there is any error. Wherefore he prays that the judgment of reversal of the judgment against the said T. W. may be in all things affirmed. But because the court of parliament now here are not yet advised to give their judgment of and upon the premises, day therefore is given, as well to the said T. Trevor, knight, who prosecutes, &c. as to the said T. W. before the said lord the king, and the peers in the same court of parliament now until Friday, to wit, twenty-ninth day of January next ensuing, at Westminster, in the county of Middlesex aforesaid, to hear their judgment thereof, because the court of parliament aforesaid thereof, not yet, &c. On which day, before the said lord the king and the peers of this kingdom of England, in the same court of parliament now here at Westminster, in the county of Middlesex aforesaid assembled, comes as well the said T. Trevor, knight, attorney general of the lord the now king, who prosecutes, &c. as the said T. W. in his proper person, whereupon all and singular the premises being seen, and by the same court of parliament now here more fully understood, and mature deliberation being thereon had, because it seems to the court of parliament now here, that neither in the record and pro-

ceedings aforesaid on the said former writ of error, nor in the rendition of the said judgment of reversal of the judgment on the indictment aforesaid, there is any error, and that that record is in nothing vitious or defective in law. It is considered by the same court of parliament now here, that the said judgment of reversal of the judgment aforesaid, be in all things affirmed and remain in its full force and effect, the said causes and matters above for error assigned in anywise notwithstanding; which said record and proceedings before the said lord the king, and the peers of this kingdom of England, so had by the same court of parliament before the said lord the king into the court of the said king before the king himself, wheresoever, &c. are remitted. And now at this day, to wit, Monday next, after fifteen days of St. Martin, in this same term, before the lord the king at the king's court, comes the said T. W. in his proper person, and prays that the court of the lord the king here cause to be done what of right shall be to be done according to the command of the writ of mittimus, as is aforesaid directed, and the tenor of the record and proceedings aforesaid being by the court here inspected, and mature deliberation being thereon had, it is considered that the said T. W. to all things, which he, the same T. W. by reason of the judgment and attainder aforesaid, hath lost, be restored, &c. and that the writ of the lord the king of restitution issue on the tenor of the record aforesaid, &c. afterwards, to wit, Tuesday next, after three weeks of the Holy Trinity, in this same term, before the lord the king at Westminster comes the said Isabel Dillon, widow, countess of Roscommon, late wife of Wentworth Dillon, late earl of Roscommon, in the kingdom of Ireland, by W. B. her attorney, and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment for the restitution, there is manifest error, to wit, in this, that the writ of mittimus aforesaid, gave no warrant, power, or authority to the said court of the lord the king before the king himself, at the king's court, to issue the writ of restitution aforesaid. There is error also in this, that no such judgment for restitution, as by the said court of the lord the king before the king himself, at the king's court aforesaid is given, ought by the law to be given, and so that judgment for restitution as aforesaid given is void in law and erroneous; wherefore she prays the judgment of the court here in the premises, and that that judgment for the restitution aforesaid for the errors aforesaid, and others in the record and proceedings found may be reversed, annulled, and held as void; and that she, the said Isabel Dillon, to all things which she, the said I. by reason of the judgment of restitution has lost, may be restored; and that the court here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters above for errors assigned, &c.

Thos. Carthew.

The award of
restitution
by the King's
Court in Ire-
land.

Upon which
writ of error
is brought in
the K. B. in
England.

Errors as-
signed.

[* 442]

[* 443]

CHAPTER* XIX.

OF REPRIEVES, PARDONS, PLEAS OF NON
IDENTITY, &c.

Call to woman after judgment of capital offence. (a) AFTER judgment, if the prisoner be a woman, she is set to the bar, and the clerk says to her:—"C. D. hold up your hand, you stand attainted of felony, what can you say for yourself in stay of the execution of the judgment which has been given against you?"

Oath of forematron to try pregnancy of prisoner. (b) You, as forematron of this jury, shall swear that you will search and try the prisoner at the bar whether she be with child of a quick child, and thereof a true verdict give according to your skill and understanding. So help you God.

Oath to the rest of Jury of matrons. (c) The same oath your forematron hath taken on her part you shall well and truly observe and keep on your part. So help you God.

The like in another form. (d) You* shall diligently search and try whether C. D. the prisoner at the bar, be with quick child or not with quick child, and a true verdict give according to the best of your skill and knowledge. So help you God.

[* 444] Officer's oath to keep the jury of matrons. (e) You shall well and truly keep this jury of matrons without meat, drink, fire, or candle, you shall not suffer any person but the prisoner to speak to them, nor you yourself, unless it

(a) From Mr. Nicholl's MS. Ante 1 vol. 759, 760.

(b) Cro. C. C. 484, see in Scotch court 10 Harg. St. Tr. 519. Ante 1 vol. 760.

(c) Cro. C. C. 484. Ante 1 vol. 760.

(d) From Mr. Nicholl's MS. See ante 1 vol. 760.

(e) See ante 1 vol. 760.

be to ask them whether they are agreed of their verdict or not agreed, without license of the court. So help you God.

When the jury of matrons are returned, the clerk calls over their names and asks them if they are agreed upon their verdict. If they say "Yes," the clerk asks them, "Who shall say for you?" they answer, "Forewoman." The prisoner is then set to the bar, and the clerk says, "Hold up your hand," and says to the jury, "Look upon the prisoner, how say you, is C. D. with quick child or not?" If they say "Yes," the clerk continues, "Then say you of the jury of matrons, hearken to the verdict as the court hath recorded it, you say that C. D. is pregnant with quick child, and so say you all."

You shall well and truly try the prisoner at the bar whether he was of sound mind or not at the time of the felony committed, and a true verdict thereupon give according to the evidence. So help you God.

London and Middlesex. To the sheriffs of the city of London, and to the sheriff of the county of Middlesex, and to the keeper of his majesty's gaol of Newgate.

Whereas at the session of gaol delivery of Newgate, for the city of London and county of Middlesex, holden at justice hall in the Old Bailey, on the nineteenth day of October last, Patrick Mahony, Roger Jones, Charles King, and Mary Smith, received sentence of death for the respective offences in their several indictments mentioned; now it is hereby ordered that execution of the said sentence be made and done upon them the said Patrick Mahony and Roger Jones, on Wednesday the ninth day of this instant month of November, at the usual place of execution. And it is his majesty's command, that execution of the said sentence upon them the said Charles King and Mary Smith be respited* until his majesty's pleasure touching them be farther known. [* 445]

Given under my hand and seal this fourth day of November, one thousand seven hundred and sixty-eight.

James Eyre, recorder, (L.S.)

To the sheriff of the town of Nottingham and county of the same town, or their under sheriff, and also to the keeper of the goal of the said town and county of the same town, or to whom else it may concern.

Let the execution of Richard Porter, who was attainted at the last assizes held in and for the town of Nottingham and county of the same town, of Friday, the 20th day of March, instant, for burglariously breaking and entering the dwelling-

(f) From Mr. Nicholl's MS. Ante 1 vol. 759.

Ante 1 vol. 760.

(g) Cro. C. C. 484. Ante 1 vol. 761. (i) Ante 1 vol. Chap. 19, per totum. This form is from Mr. Nicholl's MS.

(h) 4 Bla. Com. App. VI.

house of Isaac Wylde, and stealing goods therein, be respited until his majesty's pleasure be further known. Dated this 21st day of March, 1789.

To the king's most excellent majesty.

Certificate of judge recommending defendant to mercy under favourable circumstances, on condition of his finding sureties for transporting himself, &c. (k)

These are most humbly to certify your majesty, that at the general delivery of the gaol holden at the town of Nottingham, in and for the town of Nottingham and county of the same town, on Thursday, the thirtieth day of July last, before me, one of your majesty's justices assigned to deliver the said gaol of the prisoners therein being, James Shipley, outlawed for felony, being brought to the bar, and the record of outlawry produced and read, the prisoner prayed benefit of clergy, which being allowed to him, he was ordered to be transported beyond the seas for the term of seven years. But some favourable circumstances having since appeared in his case, and he being willing and desirous of transporting himself out of your majesty's dominions upon giving security for that purpose, I do hereby humbly recommend him as a fit object of your majesty's royal mercy, upon condition of his finding sureties, himself in ———/l. and his two sureties in ———/l. each, to be taken before one of your majesty's justices of the peace acting in and for the said town and county of the same town, for his effectual transporting himself within ——— days thereafter out of your majesty's dominions, and not being found at large therein for the term of seven years, given under my hand this ——— day of ———, 1789.

[* 446]

Certificate recommending to free pardon on condition of entering into his majesty's marine service. (l)

To the king's most excellent majesty.

I do hereby humbly certify your majesty, that at the general delivery* of the gaol of our lord the king, holden at Derby, in and for the county of Derby, on Saturday, the 24th day of July instant, before me, one of your majesty's justices assigned to deliver the gaol of the said county of Darby of the prisoners therein being, John Hallum was convicted of felony in stealing a cow, and received sentence of death for the same; but some favourable circumstances having since appeared in his case, I have caused execution of such sentence to be respited; and he being a young healthy man, and willing and desirous to enter into your majesty's marine service, I do hereby humbly recommend him to your majesty as a fit object of your majesty's royal mercy for a free pardon, upon condition of entering into your majesty's marine service, in the Portsmouth division of marines under the command of major Heathcote, now recruiting at Derby, who is willing to accept of him, or upon such other condition as your majesty shall think more proper. Dated this 27th day of July, 1779, B. H.

(k) 1 Leach, 390. This form is from Mr. Nicholl's MS. 82.

(l) See ante 1 vol. 773. From Mr. Nicholl's forms.

To the king's most excellent majesty.

I do hereby most humbly certify your majesty, that at the last assizes for the county of Leicester, Samuel Richardson was convicted before me of grand larceny, for which he was by law liable to a sentence of transportation, but in lieu thereof was ordered and adjudged to be sent and kept to hard labour for the term of three years in raising sand, soil, and gravel from, and cleansing the river Thames; but it having been represented to me that he is a young healthy man, and is willing and desirous of serving your majesty as a marine in your majesty's forces abroad, and Henry Norton Gamble, esq. first lieutenant of the Chatham divisions of marines having solicited and being willing to take him, I do therefore most humbly recommend him as an object for your majesty's pardon, on condition of his enlisting and serving your majesty as a marine in the Chatham division of marines, or on such other condition as your majesty shall think more proper. Dated the 4th day of September, 1789, H. G.

The like on another occasion.

To the king's most excellent majesty.

I do hereby most humbly certify your majesty, that at the general gaol delivery holden in and for the county of Leicester, on Wednesday, the seventeenth day of March last, before me and others, your majesty's justices assigned to deliver the gaol of the said county of Leicester of the prisoners therein being, George Hibbard was convicted and attainted of a robbery on the highway, and your majesty having afterwards been graciously pleased to* respite the execution of the sentence of death passed upon him, until your majesty's further pleasure should be made known, and the said George Hibbard, still remaining in gaol under that respite, and it having been represented to me that he has behaved himself in a sober, decent and penitent manner during his confinement, and that he is a young healthy man, and desirous of serving your majesty as a soldier in your majesty's forces abroad, I do therefore most humbly recommend him as an object of your majesty's royal mercy, on condition of his enlisting and serving your majesty in your majesty's forces abroad, or on such other condition as in your majesty's wisdom shall seem meet. Dated this 25th day of Feb. 1780, J. Eyer.

Certificate recommending to mercy on condition of defendant's enlisting as a soldier. (m)

[* 447]

To the king's most excellent majesty.

These are humbly to certify your majesty, that at the last assizes and general session of gaol delivery, holden before me in and for the city of Coventry and county of the same city, on Saturday the 11th day of August instant, Thomas Weston was tried and convicted for feloniously stealing six gross of worsted yarn of one Samuel Crosby, and at the

Certificate that defendants were convicted on uncorroborated testimony of an accomplice, and that ver.

dict was
against
judge's
opinion, and
therefore re-
commending
defendant for
uncondition-
al pardon.
(n)

same assizes Samuel Clow was also convicted as accessory in receiving the same yarn knowing it to be stolen, and I do hereby further certify your majesty, that John Davies, an accomplice in the said felony, was the only material witness against them, uncorroborated or supported by other material testimony, and that the verdict of the jury thereupon was therefore against my opinion expressed to them at the time of receiving the said verdict, and before the same was recorded, and therefore I do most humbly recommend them the said Thomas Weston and Samuel Clow as fit objects of your majesty's royal mercy, and that your majesty would be pleased to grant to them your royal free pardon. Dated this 14th day of August, 1770.

To the king's most excellent majesty.

The like on
a similar oc-
casion. (o)

These are most humbly to certify to your majesty, that the several prisoners, whose names are hereunder written, were tried and convicted before us respectively in the last Midland circuit, at the places and for the offences hereinafter specified, and received sentence of death for the same. But some favourable circumstances appearing in their respective cases, we have respited the execution of such sentence, and do humbly recommend them as fit objects of your majesty's royal mercy upon their respective conditions* hereinafter mentioned. Dated the — day of —, 1778.

[* 448]

John Hinson—Tried and convicted before me, at the last Lent assizes held at Northampton, in and for the county of Northampton, for a robbery on the highway, is recommended to mercy upon condition of being sent and kept to hard labour in the raising sand, soil, and gravel from and cleansing the River Thames, or any other service for the benefit of the navigation of the said river, for the term of five years, pursuant to the act of parliament in that case lately made and provided.

Peter Brown—Tried and convicted before me at the same assizes for stealing a mare, is recommended to mercy upon the like condition, for the term of five years.

To the king's most excellent majesty.

Certificate
recommend-
ing several
defendants
separately
convicted to
mercy, on
specified
conditions.
(p)

We do hereby most humbly certify to your majesty that the several persons, hereinafter named, were at the times and places hereinafter mentioned severally convicted and attainted of the several capital crimes hereinafter specified, before us, then being two of your majesty's justices of gaol delivery for the Norfolk circuit. But some favourable cir-

(n) From Mr. Nicholl's MS. (p) From Mr. Nicholl's MS.
(o) From Mr. Nicholl's MS. Ante 1 vol. 773, n. c. 1 Leach
Ante 1 vol. 773. 390.

cumstances appearing on their behalf respectively at their trials, we reprieved them, and humbly recommend them to your majesty as proper objects of your majesty's royal mercy upon the several conditions hereinafter specified against their names respectively, if your majesty shall so think fit.

Given under our hands this — day of —, 1779.

A. B.—Convicted and attainted on the 17th day of July last, at Huntingdon, for stealing a mare, on condition of his being sent to the River Thames to be kept to hard labour in the raising sand, soil, and gravel from and cleansing the River Thames, or any other service for the benefit of the navigation of the said river for the term of three years.

Before me,

J. Skynner.

C. D.—Convicted and attainted on the 19th day of July last, at Cambridge, for sheep stealing, on condition of his being kept to hard labour in one of the penitentiary houses, (to be* erected within one of the counties of Middlesex, Essex, Kent, or Surrey, pursuant to the statute in that case lately made) for the term of four years, and in the mean time to be kept to hard labour in the house of correction for the said county of Cambridge. [* 449]

Before me,

W. Blackstone.

A respite of an execution.

Whereas William Lee was tried and convicted before me at the last Lent assizes held at Derby, in and for the county of Derby, of a burglary, and received sentence of death for the same, and was afterwards reprieved on condition of being transported to the coast of Africa for the term of seven years, and was at the last assizes held at Derby, tried and convicted before me of feloniously being at large without lawful cause, after the said order of transportation, and was by me left for execution on Friday the 2d day of August next. But application having since been made to me on his behalf by the sheriff and grand jury of the said county of Derby, requesting me to respite the execution of the said William Lee, that they may have an opportunity of making an application to his majesty on the behalf of the said William Lee, I do therefore respite the execution of such sentence until his majesty's pleasure shall be further known with respect to the said William Lee.

Respite of execution of a prisoner at the request of the grand jury, who wished to apply to his Majesty to pardon him.

Given under my hand this 25th day of July, 1782,

E. Willes.

Numerous forms of petitions will be found throughout the

Petition for pardon. (r)

state trials, see the petition of earl of Clarendon to the Lords and Commons, 2 Harg. St. Trials 578, which was afterwards voted scandalous: Lord Nairn's to the house of Peers, 6 vol. 11, 12; Captain Porteous's to queen Caroline, then regent, id. 791; and the petition of William Chetwynd, an infant indicted for murder, which was presented to the judges in the absence of the king, 9 id. 539. These are too long and too much involved in their particular circumstances to be inserted here; they are rather matter of historical curiosity than practical utility.

Pardon under the royal sign manual.
(s)

G. R.

[* 450]

Whereas Solomon Hill was at the last assizes holden for our county of Gloucester, tried and convicted of horse stealing, and had* sentence of death passed upon him for the same; and whereas some favourable circumstances have been humbly represented unto us in his behalf, inducing us to extend our mercy and grace unto him and to grant him our free pardon for his said crime: Our will and pleasure therefore is, that you cause him, the said Solomon Hill, to be forthwith discharged out of your custody, and that he be inserted for his said crime in our first and next general pardon that shall come out for the Oxford circuit, without any condition whatsoever: and for so doing this shall be your warrant.

Given at our court of St. James this 12th day of May, 1790, in the thirtieth year of our reign.

By his majesty's command,

W. W. Grenville.

To our trusty and well-beloved our justices of assize for the Oxford circuit, the high sheriff of our county of Gloucester, and all others whom it may concern.

Letters patent under king's privy seal, remitting a fine.
(t)

Charles, by the grace of God, king of, &c. To the lord high treasurer of England, chancellor, under-treasurer, and barons of our exchequer, and all other officers and ministers of the same court for the time being, and to the chief justice and the rest of our justices of our court of king's bench, and to our attorney-general, and all other officers and ministers of the same court for the time being, greeting. Whereas in Michaelmas term, in the tenth year of our reign, upon an information in our name exhibited in our court of king's bench against C. D., esquire, and others, for divers offences, trespasses, and contempts therein mentioned, the said C. D., by judgment of the same court was fined to us in the sum of

(s) 15 East. 463. Ante 1 vol. 770. See the Countess of Somerset's pardon, 1 Harg. St. Tr. 367; and the Earl of Somerset's, id. 369; and Queen Anne's proclamation pleaded ineffectually, 5 id. 510; see also 4 id. 684, 5; 5 id. 298; 782; 11 id. 63.
(t) Trem. P. C. 303. Ante 1 vol. 762.

500*l.* and to be committed to our prison of our Marshalsea during our pleasure, and that he should sufficient security for his good behaviour to us and our people, as by the said information and judgment thereupon remaining upon record in our said court of king's bench more at large may appear. And whereas the said C. D. hath been restrained of his liberty, since the last parliament, for not satisfying the said fine so imposed on him as aforesaid, now know ye that we of our special grace have remitted, released, and quitted claim, and by these presents, for ourselves, our heirs, and successors, do remit, release, and quit claim unto the said C. D. the said fine or sum of 500*l.* by the judgment of our said court on him the said C. D. imposed as aforesaid, and all commitment, imprisonment, and other* matters whatsoever adjudged or inflicted upon him by our said court for or by reason of the trespasses, offences, or contempts aforesaid, wherefore we do, by these presents, will and require, as well the lord treasurer, chancellor, under treasurer, and barons of the exchequer, as the justices of our court of king's bench, and the officers and ministers of the said several courts respectively to whom it shall or may appertain, that they and every of them respectively, at all times hereafter, do forbear and utterly surcease to make or grant forth any extents, seizures, executions, or other process whatsoever against the said C. D. his heirs, executors, or administrators, or his or their lands, tenements, hereditaments, goods, or chattels for or concerning the levying of the said fine or sum of 500*l.* or any other part thereof. And that they take order, as well for his full and clear discharge thereof as of and from his commitment and imprisonment as aforesaid. And these presents, or the inrolment thereof, shall be unto them and every of them to whom it may or shall appertain, a sufficient warrant and discharge in that behalf; and lastly, we will and by these presents authorize and require our attorney-general for the time being, for us and in our behalf, to acknowledge satisfaction upon record of and for the said fine of 500*l.* on the said C. D. by judgment of our said court so imposed as aforesaid, whereby he may be fully and absolutely acquitted and discharged thereof against us, our heirs and successors, and these presents or the inrolment thereof, shall be unto our said attorney-general for the time being, a good and sufficient warrant in that behalf. [* 451]

Given under our privy seal at our palace of Westminster the 7th day of March, in the fifteenth year of our reign,

To the king's most excellent majesty.

These are most humbly to certify your majesty, that at the last assizes, holden at Nottingham, in and for the county of Nottingham, Augustus Mellor and Mary Howe, were tried and capitally convicted before me of feloniously uttering a

Certificate of judge of assize, that he respited defendant on

indictment for forgery, to take opinion on sufficiency of indictment which the judges have held bad, and consequent recommendation to mercy.

(u)

[* 452]

Call to prisoner to pray benefit of pardon. (x)

Verdict that defendant was guilty of manslaughter, but not guilty of murder. (y)

Defendant is recommitted to the marshal. Plea of the act of general pardon, 35 Eliz.

Replication by the attorney-general, that defendant not entitled to the benefit of it, as he was a prisoner in the K. B. prison the

forged bank of England note. That conceiving there were valid legal objections against the indictment upon which they were tried and convicted, I respited judgment thereon until the next assizes, that in the mean time the opinion of the judges might be taken on the said conviction. That the judges having fully and maturely considered the case of the prisoners are unanimously of opinion, that the indictment of which they are convicted is defective and bad, and that the prisoners ought to have been acquitted thereof.* I do therefore most humbly certify and recommend the said prisoners to your majesty for your majesty's most gracious royal free pardon. Dated, &c.

Clerk of assize says, "C. D. hold up your hand. You was at the last assizes attainted of [*as in the indictment, naming the offence,*] what have you now to say why the court should not proceed to award execution against you on the said judgment?" And then the clerk of the assize is to say, "Down upon your knees, and pray the benefit of his majesty's pardon on condition, &c. [*then read secretary of state's letter or pardon.*]

At which day comes the aforesaid J. A. in the custody of the marshal aforesaid, in his proper person; and the jurors of the jury aforesaid being summoned, came, who to speak the truth of the premises, being elected, tried, and sworn, say, upon their oath, that the aforesaid J. A. is not guilty of the felony and murder aforesaid; but the same jurors farther on their oath say, that the said J. A. is guilty of the felony, manslaughter, homicide, &c. and that he has no goods nor chattels, lands nor tenements, &c. therefore it is considered that the said J. A. as to the felony and murder aforesaid, go thereof undisturbed, &c. Upon which, for divers reasons, the court of the lady the queen, then especially moving, the said J. is again committed to the marshal. And afterwards, that is to say, on Wednesday after fifteen days of the Holy Trinity, came the aforesaid J. A. in the custody of the aforesaid marshal, in his proper person, and as to the felony and manslaughter aforesaid he pleaded the act of parliament of free pardon of the 35th year of the reign of the said lord the king, and he prayed to be thereof acquitted, &c. And Edward Coke, esquire, attorney-general of the lady the queen, who prosecutes for the said lady the queen, says, that the said J. A. ought not to have or enjoy the benefit of the pardon aforesaid; because he says, that he the said J. on the last day of the session of the parliament aforesaid, was in the prison of the marshal of the Marshalsea of the lady the queen, before the lady the queen, by the command of ———,

(u) From Mr. Nicholl's MS. and see ante 1 vol. 775.

(x) From Mr. Nicholl's MS. (y) Trem. P. C. 272, 3, 311.

knight, then and still being one of the privy council of the said lady the queen, to wit, at the borough of Southwark, in the county of Surrey; and upon this, at the prayer of the said J. A. a day is given as well to the said John as to the said attorney-general, who prosecutes, &c. in the plea aforesaid until in eight days of St. Michael, before the lady the queen wheresoever, &c. in the state in which he now is, &c. to the custody of the said marshal* in the mean time committed. At which day, before the lady the queen at Westminster, comes as well the aforesaid E. C. who prosecuteth, &c. as the said J. A. in the custody of the marshal in his proper person, and says, that he the said John, from the benefit of the free pardon aforesaid, ought not to be precluded or excluded, because he says, that on the last day of the session of parliament aforesaid, he was not in the prison of the marshal of the Marshalsea aforesaid, before the lady the queen, by the command of the aforesaid —, knight, to wit, at the borough of, &c. aforesaid, in manner and form as the said attorney general hath above in replying alledged. And of this he puts himself upon the country, &c. and the said attorney general who, &c. doth the like, &c. Therefore, &c.

last day of the session of parliament, by command of a privy counsellor.

Rejoinder that defendant was not a prisoner, &c.

[* 453]

Whereupon it is demanded of the said Geo. Brown by the court here, what he hath to say for himself why the court here should not now proceed to judgment and execution thereof upon the verdict aforesaid, who saith nothing; whereupon it is considered by the court here, that the said Geo. Brown be hanged by the neck until he shall be dead; afterwards, to wit, at the same general delivery of the gaol of our said lord the king, of the county aforesaid, held at Nottingham in and for the said county, on the same Thursday the 25th day of July in the year aforesaid, before the justices of our said lord the king above named, and others their fellows aforesaid, his majesty having been graciously pleased to extend his royal mercy to the said Geo. Brown on condition of being kept to hard labour for the term of three years in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river; and such intention of mercy having been notified in writing to this court by the right honourable Henry earl of Suffolk and Berkshire, one of his majesty's principal secretaries of state, it is ordered that his said pardon be, and the same is hereby allowed him on the condition aforesaid; and it is therefore ordered and adjudged, that he the said Geo. Brown be with all convenient speed sent and kept to hard labour for the term of three years in the raising sand, soil, and gravel from and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, pursuant to the statute in that case made and provided.

Entry of judgment that defendant be hanged, and pardon on condition of serving three years hard labour in hulks.

Order thereon.

Blencowe.

Order at as-
sises con-
firming
king's con-
ditional par-
don, defen-
dants to per-
form hard
labour (x)
[* 454]

At the assizes and general session of gaol delivery, holden at Derby, in and for the county of Derby, &c.

Whereas Edward Johnson, aged — years, and William Cupit aged — years, were at this present assizes attainted for feloniously* being at large, without lawful excuse, after an order of transportation, for which they were by law liable to suffer death without benefit of clergy; but his majesty has been graciously pleased to extend his royal mercy to them, upon condition of their being sent and kept to hard labour, the said E. J. for the term of two years, and the said W. C. for the term of three years, in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river; and such intention of mercy has been notified in the writing to this court by the right honourable T. Townshend, one of his majesty's principal secretaries of state, it is ordered, that their said pardon shall be and it is hereby allowed to them on condition that they the said E. J. and W. C. be with all convenient speed sent and kept to hard labour, the said E. J. for the term of two years, and the said W. C. for the term of three years, in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, to be computed from the time of their conviction above specified, pursuant to the statute in that case lately made and provided.

By the court.

Entry of re-
mittitur of
defendant's
fine, by vir-
tue of letters
patent for
that purpose
and judg-
ment of the
court. (a)

Afterwards, that is to say, on Monday next after eight days of the Purification of the Blessed Virgin Mary, in the 12th year of the reign of Charles now king, &c. before our lord the king at Westminster, comes John Banks, knight, attorney general of our lord the now king, who for the said lord the king now prosecutes in this behalf, and for our said lord the king says and acknowledges, that the said C. D. has paid 1000 marks into the receipt of the exchequer of our said lord the king, to the use of our said lord the king, in full satisfaction of the said fine for the offence aforesaid, in the information aforesaid, by the court, here imposed upon the said C. D. as by the receipt under the hand of Edward Wardour, knight, clerk of the pells of the receipt of the exchequer of the said lord the king here in court shown fully appears, and for the said lord the king, the said attorney general of the said lord the king, acknowledges, that the said lord the king shall be thereof satisfied, therefore let the said C. D. go thereof acquitted of the said 1000 marks.

[* 455]

Afterwards, that is to say, on Friday next after fifteen days of Easter in the 16th year of the reign, &c. before our lord the* king at Westminster, comes John Banks, knight, at-

(x) This is extracted from the Mr. Nicholl, 84.
MS. forms in the possession of (a) Trem. P. C. 303.

torney-general of our lord the now king in his proper person, and brought into the court of our said lord the king, before our lord the king then there, a certain writ of our said lord the king of his privy seal directed to himself the said attorney-general and others, and prayed that it might be inrolled, the tenor of which said writ follows in these words [*here copy the letters patent*]. And upon this the said J. B. knight, attorney-general of our said lord the king, by virtue of the said writ under the privy seal aforesaid, says and acknowledges, that the said lord the king will be fully satisfied of the said fine of 500*l.* upon him the said E. F. for the offence aforesaid, in the information aforesaid, mentioned by the court here, as it is said, imposed, and prays that the said E. F. from his imprisonment and from the judgment aforesaid at the suit of our said lord the king may be discharged and dismissed, upon which all and singular the premises being seen, and by the court here understood, it is considered by the court that the said E. F. of the offence aforesaid, in the information aforesaid above mentioned by the court here, as it is said, imposed, may be thereof discharged, and go thereof without day; and that ~~he~~ the said E. F. may be freed and discharged from his imprisonment at the suit of the said lord the king against him the said E. F. in form aforesaid given, &c.

Warwickshire. Be it remembered that, at the general session of oyer and terminer and general delivery of the gaol of our sovereign lord the king holden at Warwick, in and for the county of Warwick, on Thursday the third day of March, in the fourteenth year of the reign of our sovereign lord George the third, king of Great Britain, &c. Before sir William Blackstone, knt. one of the justices of our lord the king of his court of common pleas, George Hill, one of the serjeants at law of our said lord the king aforesaid, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, [*the commission, as before the grand jury, indictment, and petit jury who tried prisoner.*] Upon their oath say that the said R. Cook is guilty of the felony aforesaid, on him above charged, in form aforesaid, as by the said indictment aforesaid is above alledged against him; and that the said R. Cook, at the time he committed the said felony, or at any time since, had not any goods or chattels, lands or tenements, in the said county of Warwick, or elsewhere, to the knowledge* of the said jurors. Whereupon all and singular the premises being seen, and by the court and justices here fully understood, it is considered by the court and justices here that judgment on the verdict aforesaid be respited until the next general session of oyer

Entry of verdict, and respite thereon. (b)

[* 456]

(b) From MS. of Mr. Nicholl's, 134.

and terminer and general gaol delivery, to be holden for the county of Warwick aforesaid. Blencowe.

Recogni-
zance to
keep the
peace after
conviction.

Recognizance in 500/.

Commencement in common form.

Whereas his majesty has been most graciously pleased to grant his royal pardon to W. I., R. M., S. J., and J. P., convicted at his majesty's special commission of oyer and terminer for the county of Surrey, held at St. Margaret's hill in July last, for unlawfully, riotously, and tumultuously assembling, on the 8th of June last, and of beginning to pull down the dwelling-house of Lawrence Welch, upon condition that the above bounden P. S. and P. T. became security for their good behaviour and peaceable demeanour towards all his majesty's subjects, in such manner and for such sum, and for such time, as should be thought requisite and be approved of by his majesty's attorney-general; and his majesty's attorney-general hath certified that such security ought to be by recognizances before any justice of peace, in the sum of 500/ for the good behaviour of each of the prisoners for five years.

Certificate of same. To the high sheriff of the county of Surry, or his deputy, and others whom it may concern.

These are to certify that, in pursuance of his majesty's most gracious pardon granted to William Imbest, Richard Miller, Samuel Gordon, and James Palmer, convicted at his majesty's special commission of oyer and terminer held for the county of Surry, at St. Margaret's hill, in July last, and also in pursuance of a certificate, produced to me, signed by James Wallace, esquire, his majesty's attorney-general, I have this day taken a recognizance, Pillet Savigna and Paul Savigna, in the sum of 500/ for the good behaviour and peaceable demeanour of the said four several persons above named for the space of five years from the said recognizance, and also for their pleading the said pardon. Given under my hand, being one of his majesty's justices of the peace for the said county.

Michaelmas term, 6 Geo. III.

Entry of a
trial instan-
ter, in the
court of
King's
Bench, upon
plea of non-
identity, and
a rule of
court for
execution
thereon. (c)
Habeas cor-
pus.

[* 457]

Kent.
Rex.
v.

Thomas Rogers.

The prisoner at the bar being brought into this court in custody of the sheriff of the county of Sussex, by virtue of his majesty's writ of habeas corpus, it is ordered that the said* writ and return thereto be filed. And it appearing, by a certain record of attainder which hath been removed into his court by his majesty's writ of certiorari, that the prisoner at the bar stands attainted, by the name of Thomas Rogers, of felony, for robbery on the highway; and the said prisoner at the bar having heard the record of the same attainder now read to him, is now asked by the court here what he hath to say for himself, why the court here should

not proceed to award execution against him upon the said Record of
 attainder? He for plea saith, that he is not the same Thomas
 Rogers in the said record of attainder named, and against
 whom judgment was pronounced; and this he is ready to
 verify and prove, &c. To which said plea, the honourable
 Charles Yorke, esquire, attorney general of our present so-
 vereign lord the king, who for our said lord the king in this
 behalf prosecuteth, being now present here in court, and hav-
 ing heard what the said prisoner at the bar hath now alledged,
 for our said lord the king, by way of reply saith, that the said
 prisoner now here at the bar is the same Thomas Rogers in
 the said record of attainder named, and against whom judg-
 ment was pronounced as aforesaid; and this he prayeth may
 be inquired into by the country; and the said prisoner at the
 bar doth the like. Therefore let a jury in this behalf im-
 mediately come here into court, by whom the truth of the
 matter will be the better known, and who have no affinity to
 the said prisoner, to try upon their oath whether the said
 prisoner at the bar be the same Thomas Rogers in the said
 record and attainder named, and against whom judgment
 was so pronounced as aforesaid, or not: because, as well the
 said Charles Yorke, esquire, attorney general of our said lord
 the king, who for our said lord the king in this behalf prosecutes,
 as the said prisoner at the bar, have put themselves in this be-
 half upon the said jury. And immediately thereupon the said
 jury come here into court; and being elected, tried, and sworn
 to speak the truth touching and concerning the premises afore-
 said, and having heard the said record read to them, do say, up-
 on their oath, that the said prisoner at the bar is the same Tho-
 mas Rogers in the said record of attainder named, and against
 whom judgment was so pronounced as aforesaid, in manner
 and form as the said attorney general hath by his said replica-
 tion to the said plea of the said prisoner now here at the bar
 alledged. And hereupon the said attorney general, on behalf
 of our said lord the king, now prayeth that the court here
 would proceed to award execution against him the said
 Thomas* Rogers upon the said attainder. Thereupon all and
 singular the premises being now seen and fully understood by
 the court here, it is ordered by the court here that execu-
 tion be done upon the said prisoner at the bar for the said
 felony, in pursuance of the said judgment, according to due
 form of law. And it is lastly ordered that he the said Thomas
 Rogers, the prisoner at the bar, be now committed to the
 custody of the sheriff of the county of Kent, (now also pre-
 sent here in court,) for the purpose aforesaid; and that the
 said sheriff of Kent do execution upon the said defendant,
 the prisoner at the bar, for the said felony, in pursuance of
 the said judgment, according to due form of law.

Record of
 attainder
 read for felo-
 ny and rob-
 bery.
 Prisoner ask-
 ed what he
 can say in
 bar of execu-
 tion. Plea,
 not the same
 person.
 Replication.
 Averring
 that he is.
 Issue joined
 venire.
 Awarded in-
 stanter.

Jury.
 Verdict, that
 he is the
 same.

[* 458]
 Award of
 execution.

On the motion of Mr. Attorney general.

By the court,

[* 439]
List of per-
sons ordered
for transpor-
tation, re-
turned to
House of
Commons.
(d)

A* List of all persons who, between the first day of November, 1769, and the first day of November, 1776, have, at the respective sessions of oyer and terminer and general gaol delivery, held in and for the county of Northampton, within the midland circuit, been sentenced for transportation, or have been ordered for transportation in consequence of conditional pardons, or otherwise; distinguishing the name of each person, his or her crime, and the time when he or she was ordered for transportation, and whether by judgment of the court or by means of conditional pardons, or otherwise, pursuant to the order of the most honourable House of Commons, made the eighth day of November, 1776.

F. W., Deputy Clerk of the Assize in the midland circuit.

(d) From Mr. Nicholl's MS. 110. Ante 1 vol. 781.

CHAPTER* XX.

[* 460]

PROCEEDINGS RELATIVE TO EXECUTION OF SENTENCE.

GEORGE the second, by the grace of God, of Great Britain, Writ of exe-
 France, and Ireland, king, defender of the faith, and so forth, cution upon
 to the sheriffs of London, and sheriff of Middlesex, greeting, a judgment
 whereas Lawrence, earl Ferrers, viscount Tamworth, hath of murder
 been indicted of felony and murder by him done and com- before the
 mitted, which said indictment hath been certified before us king in par-
 in our present parliament; and the said Lawrence, earl Fer- liament. (a)
 rers, viscount Tamworth, hath been thereupon arraigned, and
 upon such arraignment hath pleaded not guilty; and the said
 Lawrence, earl Ferrers, viscount Tamworth, hath before us
 in our said parliament been tried, and in due form of law
 convicted thereof; and whereas judgment hath been given
 in our said parliament, that the said Lawrence, earl Ferrers,
 viscount Tamworth, shall be hanged by the neck till he is
 dead, and that his body be dissected and anatomized, the exe-
 cution* of which judgment yet remaineth to be done. We [* 461]
 require, and by these presents strictly command you, that
 upon Monday, the fifth day of May instant, between the
 hours of nine in the morning and one in the afternoon of
 the same day, him, the said Lawrence earl Ferrers, vis-
 count Tamworth, without the gate of our tower of London,
 (to you then and there to be delivered, as by another writ to

(a) 4 Bla. Com. Appendix.
 10 Harg. St. Tr. Appendix 214.

Ante 1 vol. 780.

the lieutenant of our tower of London, or to his deputy directed, we have commanded) into your custody you then and there receive; and him in your custody so being, you forthwith convey to the accustomed place of execution at Tyburn, and that you do cause execution to be done upon the said Lawrence earl Ferrers, viscount Tamworth, in your custody so being, in all things according to the said judgment. And this you are by no means to omit at your peril. Witness ourself, at Westminster, the second day of May, in the thirty-third year of our reign.

Yorke and Yorke.

Writ to
sheriff of
Middlesex in
high treason,
ordering
him to be-
head the pri-
soner.

Charles the second, by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, to the sheriffs of London and sheriff of Middlesex, greeting. Whereas William viscount Stafford, by the commons of our kingdom of England in parliament assembled was impeached for high treason and other crimes and offences by him done and committed, and thereupon by the lords temporal in our present parliament assembled, was tried, convicted, and attainted in due form of law, and was adjudged to suffer death, the execution of which said judgment yet remains to be done. We command you, and by these presents enjoin you, that on and upon the twenty-ninth day of this instant, December, between the hours of nine and eleven in the forenoon of the same day you then and there receive into your custody the said viscount Stafford, without the gate of our tower of London, to you then and there to be delivered, (as, by another writ to the lieutenant of our said tower of London directed, we have commanded) and him so being in your custody you immediately conduct to the usual place on Tower-hill, and that you cause the head of the said William Viscount Stafford to be then and there cut off and wholly separated from his body, any judgment, law, ordinance, or command heretofore had, done, ordained, or given to the contrary, notwithstanding; and this under the peril that shall fall thereon you are in no wise to omit. Witness myself at Westminster, on the eighth day of December, in the thirty-second year of our reign.

Barker.

Precept to
constable of
Tower, in
case of Earl
Ferrers, to
deliver pri-
soner to
sheriffs. (b)
[* 462]

George the second, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, to the* lieutenant of our tower of London, or his deputy, greeting. Whereas Lawrence, earl Ferrers, viscount Tamworth, hath been indicted of felony and murder by him done and committed, which said indictment hath been certified before us in our present parliament; and the said Lawrence, earl Ferrers, viscount Tamworth, hath been thereupon ar-

(b) 10 Harg. St. Tr. Appendix 214. Ante 1 vol. 785.

raigned, and upon such arraignment hath pleaded not guilty, and thereupon the said Lawrence, earl Ferrers, viscount Tamworth, hath before us in our said parliament been tried, and in due form of law convicted thereof, and for the same is adjudged to suffer death, the execution of which judgment yet remains to be done. We require you, and by these presents strictly command you, that upon Monday, the fifteenth day of May instant, between the hours of nine in the morning and one in the afternoon of the same day; him, the said Lawrence, earl Ferrers, viscount Tamworth, unto the usual place without the gate of the said tower you bring, and him to the sheriffs of London and Middlesex, you then and there deliver, which said sheriffs, by another writ to them directed, we have commanded then and there to receive the said Lawrence, earl Ferrers, viscount Tamworth, that execution of the aforesaid judgment may be done in manner and form as to the said sheriffs of London and Middlesex, we by our said other writ have commanded, and this by no means you are to omit at your peril. Witness ourself at Westminster, the second day of May, in the thirty-third year of our reign.

Yorke and Yorke.

Received then of Charles Rainford, esq. deputy lieutenant Sheriff's re- of the tower of London, the body of the within named Law- ceipt. (c)
rence, earl Ferrers, viscount Tamworth, delivered to us in obedience of the king's writ, of which the within is a true copy.

Geo. Errington. } Sheriffs of London and
Paul Vaillant. } Sheriff of Middlesex.

Rutland.—At the general delivery of the gaol of our lord Judge's or- the king, holden at Oakham, in and for the county der to hang
of Rutland, on Friday, the thirteenth day of the convicts
March, in the twenty-ninth year of the reign of for murder,
our sovereign lord George the third, king of near the spot
Great Britain, &c. before sir Alexander Thomp- murder was
son, knight, one of the barons of our lord committed,
king of his court of exchequer, and others his fel- and in chains.
lows, justices, &c. (d)

Whereas at this present assizes William Weldon and Richard Weldon, the younger, otherwise Richard Dodson, was convicted and* attainted of the wilful murder of John Freeman, [* 463]
and received sentence to be severally hanged by the neck until dead, on Monday next, the sixteenth day of March instant, and their bodies to be afterwards delivered to a surgeon to be dissected and anatomized pursuant to the statute. I do hereby, according to the power given and contained in

(c) 10 Harg. St. Tr. App.
214.

(d) From Mr. Nicholl's MS.
Ante 1 vol. 188.

the statute order and appoint that in lieu of dissection the bodies of the said William Weldon and Richard Weldon, otherwise Richard Dodson, be severally hanged in chains upon Hambleton-hill, in the most convenient place there, and as near as may be to the spot where the said murder was committed. Given under my hand and seal this fourteenth day of March, 1789. A. Thompson. (L.S.)

Transportation order.

The usual
printed
transporta-
tion order at
sessions.

West-riding of Yorkshire. At the — general quarter sessions of the peace of our lord the king, holden by adjournment at —, in and for the West-riding of the county of York, on — the — day of —, in the — year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith; before G. H. I. K. L. M. and O. P. and others their fellows, justices of our said lord the king, assigned to keep the peace of our said lord the king, in the said riding; and also to hear and determine divers felonies, trespasses, and other misdemeanours, committed within the riding aforesaid.

Whereas C. D. late of — in the West-riding of the county of York, having been indicted at the above sessions for a felony (*concisely, naming the offence,*) by him committed within the said riding, whereof being found guilty by verdict of the country, and thereupon being sentenced to be transported into foreign parts beyond the seas for the term of seven years, to such place as his majesty in his privy council shall order and direct.

It is ordered by this court, that the said C. D. be transported accordingly, and that he be committed to his majesty's gaol, the castle of York; there to be confined in safe custody until the time of his said transportation. By the court.

To Mr. P. Q. the gaoler or keeper of his majesty's gaol, the castle of York.

Order at as-
sises of
transporta-
tion of of-
fenders, who
had been
pardoned on
condition of
transporta-
tion. (e)

[* 464]

At the general delivery of our lord the king, holden at Northampton, in and for the county of Northampton, on Tuesday,* the twenty-sixth day of March, in the twenty-sixth year, &c. &c.

Whereas at this present session of gaol delivery, John Key was convicted of a highway robbery, for which he was by law excluded the benefit of clergy; but his majesty has been graciously pleased to extend his royal mercy to him upon condition of transportation for the term of seven years, and intimation thereof has been signified to this court by the right honourable William earl of Shelbourne, one of his majesty's principal secretaries of state. It is therefore ordered by this court, that his said pardon be, and it is hereby allowed to him, accordingly on the condition aforesaid; and it is thereupon

(e) From Mr. Nicholl's MS. 85. See Ante 1 vol. 791, 2.

ordered by this court, that he, the said John Key, be transported as soon as conveniently may be, to the coast of Africa, for the term of seven years, to be computed from the time of his conviction above specified, pursuant to the late act of parliament. And it is further ordered by this court, that sir William Wake, bart. Benjamin Preedy, D. D. Robert Andrew, Samuel Isted, esq. and the Rev. Michael O'Clare, clerk, or any two of them, (being justices of the peace) be, and they are hereby nominated and appointed to contract with any person or persons for the transportation of the felon ordered as above to be transported, and to cause such security to be taken as the statutes in that case made and provided direct to be taken by order of court, and also to order him to be delivered pursuant to such contract to the person or persons contracting for him as to his or their assigns.

By the court.

At the general delivery, &c. [*same as in the last.*]

The like in a more modern form. (f)

Whereas at the present session, [*as above.*] It is therefore, in pursuance of an act of parliament, passed in the twenty-fourth year of the reign of his majesty king George the third, intituled "An Act for the effectual Transportation of Felons and other Offenders, and to authorise the Removal of Prisoners in certain Cases, and for other Purposes therein mentioned," ordered and adjudged by this court that the said above named convict be transported beyond the seas accordingly, as soon as conveniently may be, for the term of seven years, to be computed from the time* of his conviction above specified. And —, two of his majesty's justices of the peace for the said county of N. are hereby appointed to contract with any person or persons for the performance of the transportation of the said convict, and to order sufficient security to be taken for the same, pursuant to the said act of parliament. And this court doth order that the said above named convict be transferred to the use of such person or persons, his or their assigns, as shall contract for the due performance of the said transportation, which contract or contracts, and security, shall be certified by the said justices to the next court of general gaol delivery to be holden for the said county of N. to be filed and kept among the records of this court.

[* 465]

By the court.

At the assizes and general session of gaol delivery holden at, &c.

Orders for hard labour in lieu of transportation. (g)

Whereas Thomas Noone, aged 25 years, was at this present assizes convicted of grand larceny, for which he was by

(f) From Mr. Nicholl's MS. the form usually adopted on the circuit.
85. See ante 1 vol. 798, 24 Geo. II. Sess. 2 c. 56. This is from Mr. Nicholl's MS. forms, and is

(g) From Mr. Nicholl's MSS. See ante 1 vol. 790, 1.

law liable to a sentence of transportation, it is ordered by the court and justices above-named that (in lieu of transportation) he the said Thomas Noone be, with all convenient speed, sent and kept to hard labour for the term of three years, in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, to be computed from the time of his conviction above specified, pursuant to the statute in that case lately made and provided.

By the court,

F. W., deputy clerk of the assizes.

Certificate
thereupon.
(h)

[* 466]

I do hereby certify that, at the assizes and general session of gaol delivery holden at the castle of Leicester, &c. [*recite the caption,*] Thomas Noone, aged 25 years, was at this present assizes convicted of grand larceny, for which he was by law liable to a sentence of transportation, it was ordered by the court and justice above-named, that (in lieu of transportation) he the said Thomas Noone be, with all convenient speed, sent and kept to hard labour for the term of three years, in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, to be computed from the time of his conviction above specified, pursuant to the* statute in that case lately made and provided. Dated the 29th day of April, 1779.

F. W., deputy clerk of the assizes
for the midland circuit.

To the sheriff of Leicestershire, the gaoler or keeper of the gaol for the said county, Duncan Campbell, esq. the overseer appointed, and to all others whom it may concern.

(h) From Mr. Nicholl's MS. 83.

CHAPTER* XXI.

[* 467]

**CERTIFICATES OF CONVICTIONS AND SENTENCES AND AC-
QUITTALS, &c.—ESTREATS, RESTITUTION OF STOLEN
GOODS, REWARDS, IMMUNITIES, &c.**

THESE are to certify that at the session of gaol delivery of Newgate holden for the county of Middlesex at justice hall in the Old Bailey, in the suburbs of the city of London, on Wednesday the — day of this instant —, A. R. Bailey. (a) was convicted for that he on the — day of — last, about the hour of two in the night of the same day, in the dwelling-house of the said C. D. situate in the parish of St. Martin in the fields, in the said county of Middlesex, then and there feloniously and burglariously did break and enter with intent the goods and chattels of the said C. D. in the same dwelling-house then and there being, feloniously and burglariously to steal, take, and carry away.

Dated this — day of —, in the year of our Lord 1798.

Selby,
Clerk of the peace and gaol delivery of the
county of Middlesex.

Certificate.*

These are to certify that at the session of our lord the king of oyer and terminer, and general gaol delivery, held for our said lord the king at Kingston-upon-Thames in and for the county of S. on Wednesday the twenty-first day of March, [a conviction upon an indictment for counterfeit-
ing an half-penny. (b)]

(a) Cro. C. C. 8th ed. 94. Ante
1 vol. 815, &c.
Crim. Law.

(b) Cro. C. C. 8th Ed. 98.
Ante 1 vol. 815, &c.
VOL. IV. 3 K

in the twenty-first year of the reign of our said lord the king, before sir H. G. knight, one of the justices of his majesty's court of common pleas, at Westminster, and sir W. H. A. knight, one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, and others their fellows, justices of our said lord the king assigned to deliver the said gaol of the prisoners therein being, W. R. late of the parish of Saint George, Southwark, in the county of S. labourer, and J. R. late of the same place, labourer, were tried upon an indictment, for that they the said W. R. and J. R. after the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and seventy-one, to wit, on the twenty-sixth day of August, in the twentieth year of the reign of our sovereign lord George the third, now king of Great Britain, &c. with force and arms, at the parish aforesaid, in the county aforesaid, one piece of copper money of this realm called an halfpenny, then and there unlawfully and feloniously did make, coin, and counterfeit against the form of the statute in such cases made and provided, and against the peace of our said lord the king, his crown, and dignity, and further that they the said W. R. and J. R. after the said twenty-fourth day of June, in the said year of our Lord one thousand seven hundred and seventy-one, to wit, on the twenty-sixth day of August, in the twentieth year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, one piece of false feigned and counterfeit copper money to the likeness and similitude of the good, legal, and current copper money of this realm called an halfpenny, then and there unlawfully and feloniously did make and coin, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown, and dignity, and were thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to them the said W. R. and J. R. and the same was allowed to them accordingly, and it was thereupon ordered by the said last-mentioned court that they severally pay a fine of one shilling to our said lord the king, and be imprisoned in the gaol of our said lord the king for the said county of S. to wit, the said W. R. for the space of nine months, and the* said J. R. for the space of six months, as appears by the records of my office. Dated the thirteenth day of September, in the year of our Lord one thousand seven hundred and eighty-three.

J. K., clerk of assize.

Certificate of
record of
conviction of
burglary, at
Norfolk cir-
cuit. (c)

I do hereby certify that at the session of oyer and terminer holden at Bury St. Edmunds, in and for the county of Suffolk, on Thursday the 23d day of July, in the fifty-second year of the reign of our sovereign lord, George the third, by

the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith, before the right honourable sir James Mansfield, knight, chief justice of our lord the king of the bench, the honourable John Heath, one of the justices of our said lord the king of the same bench, and other their fellows, justices of our said lord the king, assigned to deliver the gaol of the county aforesaid of the prisoners therein being, Joseph Bonney, late of the parish of St. Gregory, in the town of Sudbury, within the liberty of Bury St. Edmunds, in the county of Suffolk, labourer, was indicted and tried for that he, the said Joseph Bonney, on the 28th day of June, in the fifty-second year of the reign aforesaid, about the hour of twelve in the night of the same day, with force and arms at the parish aforesaid, in the town and liberty aforesaid, in the county aforesaid, the dwelling-house of Joseph Herbert, there situate, feloniously and burglariously did break and enter with intent the goods and chattels of the said Joseph Herbert, in the same dwelling-house, then and there being found feloniously and burglariously to steal, take and carry away, against the peace of our said lord the king, his crown, and dignity. And I further certify, that the said Joseph Bonney was then and there, to wit, at the said session of oyer and terminer so holden as aforesaid, convicted of the said offence, and was sentenced to be hanged by the neck until he was dead, as by the records appear.

Given under my hand this 27th day of January, in the year of our Lord 1813.

Henry Edgell,
Clerk of the Assizes.

I do hereby certify, that at the assizes and general session of gaol delivery holden at, &c. Edward Johnson, aged 26 years, and William Cupit, aged 40 years, were at this present assizes attainted of ———, for which they were by law liable to suffer death* without benefit of clergy; but his majesty has been graciously pleased to extend his royal mercy to them, upon condition of their being sent and kept to hard labour, [*stating the condition,*] and such intention of mercy has been notified in writing to the said court, by the right honourable J. Townsend, one of his majesty's principal secretaries of state, it was ordered that their said pardon should be, and it was thereby allowed to them, on condition of their being sent and kept to hard labour, the said E. T. for the term of two years, and the said W. C. for the term of three years, in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, to be computed from the time

Certificate to
sheriff, gaol-
er, &c. on al-
lowance of
conditional
pardon. (d)
[* 470]

(d) From Mr. Nicholl's MS. 84. Ante 1 vol. 815, &c.

of their conviction above specified, pursuant to the statute in that case lately made and provided. Dated the 3d day of August 1782.

F. W., deputy clerk of the assizes
for the midland circuit.

To the sheriff of Derbyshire, the gaoler or keeper of the gaol for the said county, Duncan Campbell, esq. the overseer appointed, and to all others whom it may concern.

Certificate of clerk of assizes, size of conviction, and order of transportation. (e)

These are to certify, that at the general delivery of the gaol of our lord the king, holden at the castle of Lincoln, in and for the county of Lincoln, on Monday the ——— day of ———, in the ——— year of the reign of our sovereign lord George the third, king of Great Britain, &c. before [*mention the judges,*] and others their fellows, justices of our said lord the king, assigned to deliver the said gaol of the prisoners therein being, A. B., late of the parish of ———, in the county of Lincoln, labourer, according to due course of law, was upon a certain indictment duly exhibited against him tried, for, that he the said A. B., on the, &c. [*so through the indictment.*] And that, by a certain jury of the county, between our said lord the king and the said A. B. in that behalf then and there duly taken, he the said A. B. was duly convicted upon the indictment aforesaid. And thereupon the said A. B., by the above-named justices of our said lord the king, was ordered to be transported, as soon as conveniently might be, to some of his majesty's colonies and plantations in America, for the term of seven years, pursuant to the form of the statute in such case made and provided. Given under my hand, this, &c.

J. Blencowe, clerk of the assizes
in the midland circuit.

[* 471] These* are to certify that, at the assizes and general session of gaol delivery holden for the county of Warwick, in deputy clerk the same county, on Saturday the 11th day of August, in the of assizes, of tenth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before the right honourable sir John Eardley Wilmot, knight, chief justice of our said lord the king, of his court of common pleas, the honourable sir Rich. Adams, knight, one of the barons of our said lord the king, of his court of exchequer, and others, their fellows, justices of our said lord the king, assigned to deliver the gaol of the county of Warwick of the prisoners therein being, the following persons were tried and convicted, for the several offences hereinafter specified, and ordered to be transported for the several and respective terms of years

(e) Ante 1 vol. 815. From Mr. Nicholl's MS. 87.

(f) From Mr. Nicholl's MS. 88. Ante 1 vol. 815.

hereinafter specified, viz. Joseph Rotheram, convicted of felony and house breaking in the day time, (no person being therein,) and stealing goods to the value of 1*l.* 8*s.* 10*d.* and received sentence of death for the same, but was reprieved, and his majesty having been pleased to extend his royal mercy to him, upon condition of transportation for fourteen years, which being signified to the court above mentioned by one of his majesty's principal secretaries of state, he was ordered by the said court to be transported to one of his majesty's colonies or plantations in America, for the said term of fourteen years.

James Tyson, convicted of felony, in stealing above the value of 40*s.* in a dwelling-house, and received sentence of death for the same, but was reprieved, and his majesty having been pleased to extend his royal mercy to him upon condition of transportation for fourteen years, which being signified to the court above mentioned, by one of his majesty's principal secretaries of state, he was ordered by the said court to be transported to one of his majesty's colonies or plantations in America for the said term of fourteen years.

Margaret Wootton, spinster, convicted of felony, in stealing goods to the value of 1*l.* 3*s.* 6*d.* was ordered by the said court to be transported to one of his majesty's colonies or plantations in America for the term of seven years.

John Hadden, convicted of felony, in stealing four leaden garden pots, of the value of 24*s.* was ordered by the said court to be transported to one of his majesty's colonies or plantations in America for the term of seven years.

As witness my hand, this eleventh day of September, 1770.

F. W. deputy clerk of the assizes on
the midland circuit.

To* the right honourable sir John Skynner, knight, &c.

I do hereby further humbly certify that, at the assizes and general session of oyer and terminer and gaol delivery of our sovereign lord the king, holden at Warwick, in and for the county of Warwick, on Saturday the 12th day of August, in the 20th year of the reign of our sovereign lord George the third, king of Great Britain, &c. before sir Henry Goulde, knight, one of the justices of our said lord the king of his court of common pleas, sir Wm. H. Ashurst, knight, one of the justices of our said lord the king, assigned to hold pleas before the king himself, and others their fellows, justices of our said lord the king, assigned to hear and determine of all treasons, murders, felonies, and other offences committed in the said county of Warwick, and also to deliver the gaol of the same

[* 472]

Certificate of
clerk of as-
size of the
finding a
true bill for
forgery. (g)

(g) From Mr. Nicholl's MS. 94. Ante 1 vol. 815.

county of the prisoners therein being, the said Wm. Tovey above mentioned did appear and prefer a certain bill of indictment to the grand jury of the same county against Joseph Weston, for felony, in forging a certain bill of exchange for 200*l.* on the 23d day of March, 1778, at the parish of Sutton Colfield, in the county of Warwick, which said bill of indictment was by the same grand jury of the same county returned to the court and justices last above named, and by them found a true bill. Given under my hand this 28th day of October, 1780.

Certificate of
prisoner's
having been
convicted
and sentenc-
ed to trans-
portation.(h)

To the right hon. sir Sydney Stafford Smythe, knight.

I do hereby humbly certify, that at the assizes and general gaol delivery within mentioned, holden in and for the said borough of Leicester, Richard Beale, esq. the justice within named, did certify and return the recognizance of the said Joan Perkins within mentioned, to give evidence there against Ann, the wife of John Perkins, in a case of felony; but the said Joan Perkins, although solemnly called, did not then and there appear; and therefore the said recognizance became forfeited, and was by the court and justices within named ordered to be estreated into his majesty's court of exchequer. And I do hereby further certify, that the said Ann, the wife of John Perkins, was at the same assizes and general gaol delivery within mentioned, tried and convicted of grand larceny, and was ordered to be transported for seven years. Dated this twentieth day of May, 1775.

Certificate of
clerk of as-
size, that de-
fendant had
not appeared
to try his
traverse. (i)
[* 473]

These are to certify, that at the assizes and general sessions of oyer and terminer of our lord the king, holden for the county of Nottingham,* at Nottingham, in the same county, on Saturday, the ninth day of March, in the eleventh year of the reign of our sovereign lord George the third, king of Great Britain, &c. before the honourable sir Richard Aston, knight, one of the justices of our said lord the king assigned to hold pleas before the king himself, and others his fellows, justices, &c. William Champion, late of the parish of Workshop, in the county of Nottingham, farmer, was, and stands indicted for doing and committing (together with one Luke Bottom) divers indecent sodomitical practices, with intent to commit buggery, on the 25th day of July, then last past, at the said parish of Workshop. And these are to further certify, that at the assizes and general session of oyer and terminer holden for the county aforesaid before the right hon. sir William De Grey, knight, chief justice of our said lord the king, of his court of common pleas and others, his fellows, justices, &c. on Thursday, the thirteenth day of August, in the twelfth year of his present majesty's reign, he, the said

(h) From Mr. Nicholl's MS.
94. Ante 1 vol. 815.

(i) From Mr. Nicholl's MS.
89.

William Champion, appeared and pleaded not guilty to the said indictment, and entered into a recognizance with sureties to try his traverse thereon, at the then next assizes and general session of oyer and terminer to be holden in and for the county aforesaid, at which next assizes, (to wit) at the assizes and general session of oyer and terminer holden for the county of Nottingham, at Nottingham, in the same county, on Wednesday, the eleventh day of August, last past, before the honourable George Perrot, esq. one of the barons of our said lord the king, of his court of exchequer and others his fellows, justices, &c. the said William Champion did not appear and take his trial on the said indictment, but made default, whereby the same indictment and the charge therein contained still remain open against him, the said William Champion. Dated this ninth day of September, 1773.

T. W. dep. clerk of the assizes in the Midland circuit.

I do hereby certify, that at the general delivery of the gaol of our lord the king, holden at Nottingham, in and for the county of Nottingham, on Thursday the 25th day of July, in the sixteenth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before Richard Ashton, knight, one of the justices of our said lord the king, assigned to hold pleas before the king himself, and others his fellow justices, &c. George Brown (aged twenty-six years) was tried and convicted for breaking and entering the dwelling-house of Samuel Cuttal in the day time (no person being therein) and stealing* goods to the value of 2*l.* 7*s.* 6*d.* the property of Samuel Cuttal, on the 11th day of June then last past, at the parish of Workshop, in the said county of Nottingham; and his majesty having been graciously pleased afterwards to extend his royal mercy to him upon condition of being sent and kept to hard labour for the term of three years in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, pursuant to the statute in that case made and provided, which intention of mercy having been notified to the court and justices above named, by one of his majesty's principal secretaries of state, he the said George Brown was ordered and adjudged by the court and justices above named to be sent and kept to hard labour for the said term of three years accordingly. And I do hereby further certify, that afterwards (to wit) at the general delivery of the gaol of our lord the king holden at Nottingham, in and for the county of Nottingham, on Thursday the 17th day of July, in the 17th year of the reign of our sovereign lord George the third, king

Clerk of assize's certificate of a prisoner having been convicted of escaping from the Thames, and being sentenced to hard labour for double the former time. (k)

[* 474]

of Great Britain, &c. before Edward Willes, esq. one of the justices of our said lord the king assigned to hold pleas before the king himself, and others his fellows, justices, &c. and the said George Brown was convicted by his own confession for escaping from the place of his confinement on the river Thames, pursuant to the order above mentioned, and it appearing to the court and justices last above named, that such escape was not made until seven months after the conviction before mentioned, it was therefore ordered and adjudged by the court and justices last above named, that he the said George Brown be again sent and kept to hard labour in the raising sand, soil, and gravel from, and cleansing the river Thames, or any other service for the benefit of the navigation of the said river, for the term of four years and ten months from thence next ensuing (being double the term for which he was liable to serve at the time of his escape before mentioned) pursuant to the statute in that case made and provided. Dated this 10th day of March, 1780.

T. W.

deputy clerk of the assizes
in the midland circuit.

Certificate of
a conviction
of coining
half-pence.

(1)

[* 475]

These are to certify, that at the session of our lord the king of oyer and terminer and general gaol delivery, held for our said lord the king at Kingston upon Thames, in and for the county of S. on Wednesday the twenty-first day of March, in the twenty-first* year of the reign of our said lord the king, before sir H. G., knight, one of the justices of his majesty's court of common pleas at Westminster, and sir W. H. A., knight, one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king, before the king himself, and others their fellows, justices of our said lord the king, assigned to deliver the said gaol of the prisoners therein being, W. R., late of the parish of Saint George, Southwark, in the county of S., labourer, and J. R., late of the same place, labourer, were tried upon an indictment [*here set out the indictment*], and were thereupon convicted, and prayed that the benefit of the statute in such case made and provided might be allowed to them the said W. R. and J. R. accordingly, and it was thereupon allowed to them accordingly; and it was thereupon ordered by the last mentioned court, that they severally pay a fine of one shilling to our said lord the king, and be imprisoned in the gaol of our said lord the king for the said county of S., to wit, the said W. R. for the space of three months, and the said J. R. for the space of six months, as appears by the records of my office. Dated the thirteenth day of September,

in the year of our Lord one thousand seven hundred and eighty-three.

I do hereby certify, that at the assizes and general sessions of oyer and terminer of our sovereign lord the king, ^{Certificate by clerk of assize of a recognizance and taxation of costs thereon. (m)} holden at Nottingham, in and for the county of Nottingham, on Thursday the 16th day of March, in the 26th year of the reign of our sovereign lord George the third, now king of Great Britain, &c., before the honourable John Heath, esq., one of the justices of our lord the king of his court of common pleas, and others his fellows, justices, &c. George Andrews, late of the parish of Lambley, in the county of Nottingham, yeoman, Edward Fisher, late of the same, yeoman, and William Wilson, late of the same, framework knitter, were and stood indicted for a conspiracy in and procuring one Joseph Ball, a pauper, of the parish of Calverton, in the said county of Nottingham, to marry Mary Chappel, spinster, a pauper of the parish of Lambley aforesaid, and thereby burthening the said parish of Calverton with their maintenance, on the 8th day of March then last, at the parish of Lambley aforesaid. And that at the assizes and general sessions of oyer and terminer, holden at Nottingham, in and for the county of Nottingham, on Thursday the 3d day of August, in the said 26th year of his present majesty's reign, before the honourable sir Henry Gould, knight, one of the justices of our lord the king of his court of common pleas, the honourable Edward Willes, esq. one of the justices* of our said lord the king, assigned to hold pleas before the king himself, and others their fellows, justices, &c. the said George Andrews and Edward Fisher did respectively personally appear and plead not guilty to the said indictment, and enter into a recognizance with sureties to try their traverse therein at the then next assizes and general sessions of oyer and terminer to be holden in and for the said county of Nottingham; and I hereby further certify, that at the said next assizes and general sessions of oyer and terminer holden at Nottingham, in and for the county of Nottingham, on Thursday the 15th day of March, in the 27th year of his present majesty's reign, before the honourable John Heath, esq. above named, and others his fellows, justices, &c. they the said George Andrews and Edward Fisher did respectively personally appear to try their said traverse according to the form and effect of the recognizance by them as aforesaid acknowledged and entered into for that purpose, and thereupon a jury was then and there duly sworn and charged to try the issue of the said traverse between our said lord the king and the said G. Andrews and E. Fisher; and at the same assizes and general sessions of oyer and terminer last mentioned in

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the said prosecution it was ordered by the court, by and with the consent of the parties aforesaid, their counsel and attornies, that the said defendants G. Andrews and E. Fisher be fined one shilling each and discharged, upon their severally entering into recognizances in the sum of one hundred pounds fully to indemnify and save harmless the parishioners of the parish of Calverton, in the county of Nottingham, of, from, and against the maintenance and support of Joseph Ball and Mary his wife, or either of them and their family; and also to pay and satisfy the parishioners of the said parish on or before the last day of Easter term (then next) all such costs, charges, and expences as should be taxed and settled by John Frederick Hilditch, gent. deputy clerk of the assizes, to whom it was thereby referred for that purpose, and he was thereby directed to settle the same as between attorney and client; and I further certify, that in further pursuance of the order of court abovementioned, that the said G. Andrews and E. Fisher did at the said last-mentioned assizes and general sessions of oyer and terminer, severally enter into and acknowledge to our sovereign lord the king, his heirs and successors, a recognizance in the sum of 100*l*. with condition fully to indemnify and save harmless the parishioners of the parish of Calverton, in the county of Nottingham, of, from, and against the maintenance and support of Joseph Ball and Mary his wife, or either of them and their family, and also to pay and satisfy the parishioners of the said parish* on or before the last day of Easter term (then next) all such costs, charges, and expences as should be taxed and settled by John Frederick Hilditch, gent. deputy clerk of the assizes, as between attorney and client; and lastly, I certify, that in pursuance of the said order of reference, the said costs, charges, and expences were afterwards at the same assizes and general sessions of oyer and terminer last mentioned, taxed and settled by me the said John Frederick Hilditch, the referee above named, after being attended by and hearing all necessary parties, their attorneys or solicitors, at the sum of 26*l*. 13*s*. 10*d*. Dated this 25th day of February, 1790.

J. F. H.

deputy clerk of assizes for
the midland circuit.

Certificate
where the
party ne-
glects to pro-
secute and
give evi-
dence. (n)

To the right honourable, &c. [*directed as the former.*]

These are to certify that, at the session above named, R. D. esquire, then and yet one of his majesty's justices of the peace for the county of Middlesex, did certify the recognizance in part above specified, wherein the above named N. S. and T. B. were severally bound in forty pounds each,

upon condition that the said N. S. and T. B. should personally appear at the same session to prosecute the law with effect, and give evidence upon a bill of indictment to be exhibited by them to the grand jury against A. D. on a violent suspicion of stealing out of the house of the said N. S. a firkin of soap, which was found in the custody of the said A. D.; and if the said bill should be found and returned by the grand jury to be a true bill, then they were to appear at the sessions of gaol delivery of Newgate, to be holden for the same county, to prosecute and give evidence against the said A. D. upon the said indictment for the offence aforesaid, at which same session of the peace the said N. S. and T. B. did not, nor did either of them, appear and prosecute and give evidence against the said A. D. according to the condition of the said recognizance, nor did they or either of them exhibit to the grand jury any bill of indictment against the said A. D. for the same offence, whereby the said recognizance became forfeited, and was accordingly estreated into his majesty's court of exchequer. Dated the ——— day of ———, 1782.

S. clerk of the peace of the
county of Middlesex.

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To the right honourable sir J. S. lord chief baron of his majesty's* court of exchequer, and the rest of the barons of that honourable court.

Middlesex. These are to certify that, at the session above mentioned, T. B. esquire, then and yet one of his majesty's justices of the peace for the county of Middlesex, did certify the recognizance above specified, conditioned for the personal appearance of the above named C. D. at the same session, to answer unto all such matters of misdemeanours as, on his majesty's behalf, should be then and there objected against him by A. B. for assaulting, beating, and wounding of her; at which same session the said C. D. did not appear according to the condition of the said recognizance, whereby the same became forfeited, and was accordingly estreated into his majesty's court of exchequer; and these are further to certify that, upon search made among the records of my office, I do not find any indictment against the said C. D. for the said offence. Dated the ——— day of ———, 1782.

S. clerk of the peace for the
county of Middlesex.

To the right honourable, &c.

These are to certify that, at the session [*when by indorsement*] within mentioned, the within J. B. stood bound by his recognizance within specified, conditioned for the personal appearance of the said J. B. at the same session to answer

Certificate where defendant neglected to appear at proper sessions, but

appeared at what should be objected against him by J. W. one of the
 a subsequent headboroughs of the parish of St. Leonard, Shoreditch, for
 session, and insulting and assaulting him in the execution of his office ;
 thereby for- and these are further to certify that, at the same session
 feited his re- the said J. B. was indicted for the offence aforesaid, at
 cognizance, which same session the said J. B. did not appear, pursuant
 and also con- to the condition of the said recognizance, whereby the same
 fessed the in- became forfeited, and was accordingly estreated into his ma-
 dictment. jesty's court of exchequer. And these are further to certify
 (p) that, after the said recognizance was so estreated, to wit, at
 the general quarter session of the peace holden at the New
 Sessions house, on Clerkenwell-green, in and for the county
 of Middlesex, on the ——— day of ———, 1782, the said
 J. B. came into court and confessed the said indictment, and
 was fined three shillings and four-pence, which he paid to the
 sheriff of the said county in court. And these are further to
 certify that, upon search made among the records in my of-
 fice, I do not find any other indictment aganst the said J. B.
 Dated the ——— day of ———, 1782.

S. clerk of the peace for the
 county of Middlesex.

[* 479]
 The like
 where de-
 fendant was
 tried and ac-
 quitted. (q)

To* the right honourable, &c.

Town and county of S. (to wit.) I do hereby humbly
 certify that, on the 24th day of August, in the year of our
 Lord 1778, J. D. of C. gentleman, and G. B. of C. esq.
 came before S. T. Read, esq. mayor, and R. V. Sadlier, esq.
 two of his majesty's justices of the peace in and for the said
 town and county, and the said J. D. acknowledged himself
 indebted to our sovereign lord the king in the sum of 100/. and
 the said G. B. acknowledged himself indebted in the sum of
 50/. of lawful money of Great Britain, upon condition that the
 said J. D. did and should personally appear at the next
 general quarter session of the peace to be holden in and for
 the town and county of S. and then and there answer and
 plead to a certain indictment to be preferred against him by
 S. M. esq. for felony, and did not depart the court without
 leave. And I do also further certify that the said J. D. did not
 appear at the then next general quarter session of the peace
 holden in and for the said town and county of S. or at any
 adjournment thereof, pursuant to the recognizance aforesaid,
 whereby the same recognizance as well of the said J. D. as
 G. B. became forfeited, and were estreated accordingly. And
 I do also further certify that, at the general quarter ses-
 sion of the peace held at the Guildhall, in and for the said
 town and county of S. on the sixteenth day of April, 1779,
 the said J. D. did personally appear and pleaded to an indict-
 ment preferred against him by the said S. M. at the general

(p) Cro. C. C. 8th Ed. 97.
 Ante 1 vol. 815.

(q) Cro. C. C. 8th Ed. 97.
 Ante 1 vol. 815, 6.

quarter session of the peace held at the Guildhall in and for the said town and county of S. on the thirteenth day of October, 1778, for feloniously stealing one double-cased gold watch, of the value of 18*l.* and three seals, set in gold, of the value of 3*l.* of the goods and chattels of the said S. M. and that at the said general quarter sessions of the peace held in and for the said town and county of S. on the said sixteenth day of April, 1779, the said J. D. was arraigned and tried on the said indictment, and was by the jury then and there impanelled and sworn found not guilty, and he was acquitted accordingly. Given under my hand this second day of July, 1779.

W. D. clerk of the peace for the
said town and county.

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I do hereby certify that, at the general session of gaol delivery of our lord the king, holden at ———, in and for the county of ———, on ———, the ——— day of ———, in the 20th year of the reign of our sovereign lord George the third, king of Great Britain,* &c. before me, one of his majesty's justices assigned to deliver the gaol of the said county of ——— of the prisoners therein being, A. B. and C. D. were tried and acquitted, and the following prisoners were discharged by proclamation, for want of prosecution, namely, E. H. and G. H. and also the following prisoners were discharged by proclamation, the bills of indictment preferred against them respectively not having been found by the grand jury, namely, J. K. and L. M. as by the records appear. Given under my hand this ——— day of July, 1774, pursuant to the statute in that case lately made.

Certificate
by clerk of
assize of
some prison-
ers' acquit-
tal, and of
the dis-
charge of
others for
want of pro-
secution. (r)

To the right honourable sir S. S. Smythe, knt. &c.

These are humbly to certify that, at the assizes and general session of oyer and terminer holden at the castle of Leicester, in and for the county of Leicester, on the 10th day of March, in the 14th year, &c. before the honourable sir Wm. Blackstone, knt. one of the justices of his majesty's court of common pleas, and others his fellows, justices assigned to inquire of all treasons, murders, felonies, misdemeanours, and offences whatsoever, committed within the county aforesaid, also to hear and determine the same, the above-named Samuel Pollard and John Pollard became bound in a recognizance in the sum of 40*l.* each, for the personal appearance of the Rev. Thomas Hall, clerk, to try his traverse, at the then next assizes to be holden for the said county, on an indictment found against him for an assault and misdemeanour; which said recognizance was at several subsequent assizes respited, on motion of counsel and consent, and on payment of costs, alledging that the said Thomas Hall was a prisoner

Certificate
of estreat on
non-appear-
ance of de-
fendant. (s)

(r) From Mr. Nicholl's MS.
87. Ante 1 vol. 815.

(s) From Mr. Nicholl's MS.
98.

in his majesty's gaol of Warwick, charged in execution for large debts ; and these are further to certify that, at the assizes and general sessions of oyer and terminer holden at the castle of Leicester, on Thursday the 20th day of March, in the 17th year, &c. before the honourable sir George Nares, knt. one of the justices of his majesty's court of common pleas, and others his fellows, justices assigned to inquire of all treasons, murders, felonies, misdemeanours, and offences whatsoever, committed within the county aforesaid, and also to hear and determine the same, the above-named L. P. and S. P. although solemnly called three times to bring forth the body of the said Thomas Hall, did not appear, but made default, whereby the said recognizance became forfeited, and was by the court and justices last above-mentioned (on motion of counsel for the prosecution) ordered to be estreated into his majesty's* court of exchequer, and the same was estreated accordingly, and no further proceedings have since been had therein. Dated this 14th day of Nov. 1777.

Clerk of as-
size certifi-
cate that wit-
nesses for
prosecution
did not ap-
pear, where-
by defendant
acquitted,
and recogni-
zance of wit-
nesses for-
feited. (t)

To the right honourable sir Thomas Parker, knt. &c.
These are humbly to certify, that at the assizes and general sessions of oyer and terminer, and general gaol delivery held at Oakham, in and for the county of Rutland, on Wednesday, the 4th day of March, last past, before the honourable Sir Richard Aston, knt. one of the justices of our lord the king, assigned to hold pleas before the king himself and other justices of our said lord the king, appointed to deliver the gaol of the said county of Rutland, of the prisoners therein being ; and also to hear and determine of all treasons, murders, felonies, and misdemeanours, committed within the same county, Charles Trimnell, then clerk, and yet being one of his majesty's justices of the peace for the said county of Rutland, did certify and return the three several recognizances within mentioned, of Wm. Hubbard the elder, Wm. Hubbard the younger, and Thomas Hubbard, in the penalty of 50*l.* each for their respective personal appearance at the same assizes and general sessions of gaol delivery, namely, the said Wm. Hubbard the elder to prosecute, and the said Wm. Hubbard the younger and Thomas Hubbard, to give evidence against Richard Atkinson a prisoner, then in the gaol for the said county of Rutland, for felony and burglary. And these are further to certify, that the said Wm. Hubbard the elder, Wm. Hubbard the younger, and T. H. did prefer, and cause to be preferred at the same assizes and general sessions of gaol delivery, a bill of indictment against the said Richard Atkinson, for felony and burglary by him committed in the dwelling-house of him the

(t) From Mr. Nicholl's MS. 97.

said W. H. the elder, at Langham, in the said county, which bill of indictment was, by the grand jury then sworn and charged to enquire for our said lord the king, for the body of the county aforesaid, returned a true bill; but the said W. H. the elder, W. H. the younger, and T. H. did afterwards, at the same assizes and general sessions of gaol delivery, neglect to attend, according to the tenor of their said recognizance, and give evidence to the court and jury, sworn on the trial of the said Richard Atkinson on the indictment aforesaid, although they were each three times severally solemnly called upon so to do, whereby the said Richard Atkinson was acquitted and discharged of the felony and burglary aforesaid, and the said several recognizances became forfeited for their neglect in so doing, and the same were ordered to be (and were accordingly) estreated into* his majesty's court of exchequer. Dated this 20th day of July, 1770. [* 482]

To the right honourable sir Thomas Parker, knt. &c. Clerk of assize certificate that defendant did not appear to take his trial for a misdemeanour, whereby his recognizance which had been once respited became forfeited. (u)

These are humbly to certify, that at the assizes and general gaol delivery, holden at the castle of Leicester, in the county of Leicester, on Friday, the 17th day of March, in the 22d year of the reign of the late sovereign lord George the 2d, king of Great Britain, &c. before sir Thomas Birch, knt. then one of the justices of our said lord the king, of the court of common pleas, and others, his fellows, justices of our said lord the king, appointed to deliver the gaol of the said county of Leicester, of the prisoners therein being, and also to hear and determine of all treasons, murders, felonies, and misdemeanours, committed within the same county, Thomas Pochin and Wm. Wright, Esq. then being two of his majesty's justices of the peace for the said county of Leicester, did certify and return the recognizance within mentioned, of Thomas Upton of Whitwick, in the said county, coal-carrier, in the penalty of 20*l.* for his personal appearance at the said assizes, to answer what should be then and there objected against him concerning his entering with others in a riotous manner on a certain warren called Tin Meadow warren, in the said county; which said recognizance was, by the court and justices above named, respited until the then next assizes to be holden for the said county; at which said next assizes and general gaol delivery holden at the castle of Leicester, in the said county of Leicester, on Wednesday, the 26th day of July, in the 23d year of the reign of the late sovereign lord George the 2d, king of Great Britain, &c. before sir Martin Wright, knt. then one of the justices of the said late lord the king, assigned to hold pleas before the king himself; sir Michael Foster, knt. one other of the justices of the said lord the king, as-

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signed to hold pleas before the king himself, and others their fellows, justices appointed to hold the assizes for the said county of Leicester, and also to hear and determine of all treasons, murders, felonies, and misdemeanours, committed within the same county. The above mentioned recognizance of the said Thomas Upton, was, by the court and justices last above named, further respited, until the then next assizes and general gaol delivery, to be holden for the said county of Leicester, at which said next assizes and general gaol delivery, holden at the castle of Leicester, in and for the said county of Leicester, on Friday, the 30th day of March, in the 23d year of the reign of the said late lord George the 2d, king of Great Britain, &c. before Edward Cline, Esq. then one of the barons of the* exchequer of the said late lord the king, and others his fellows, justices appointed to hold the assizes for the said county of Leicester, and also to hear and determine all treasons, murders, felonies, and other misdemeanours committed in the said county, the said Thomas Upton did not appear, but made default, whereby the said recognizance became forfeited, and ordered to be estreated, and the same was accordingly estreated into his majesty's court of exchequer. And I do hereby further certify, that no bill of indictment whatsoever was at any or either of the above mentioned assizes, preferred against the said Thomas Upton, dated this — day of April, 1771.

Certificate of
non appear-
ance of pro-
secutor to
prosecute,
whereby his
recognizance
became for-
feited.(x)

To the right honourable sir John Skynner, knt. lord chief baron of his majesty's court of exchequer, and the rest of the barons of that honourable court.

I hereby humbly certify, that at the assizes and general gaol delivery abovementioned, Samuel Streete Perkins, esquire, then one of his majesty's justices of the peace for the county of Leicester, did certify the recognizance above specified, taken before him on the 10th day of June, in the year aforesaid, conditioned for the said Joseph Turnell's personal appearance at the next assizes and general delivery, to be holden for the said county of Leicester, then and there to prefer a bill of indictment against Samuel Newberry, in a case of felony, and give evidence concerning the same; at which assizes and general gaol delivery abovementioned, the said Joseph Turnell did not prefer any bill of indictment against the said Samuel Newberry, whereby the said recognizance became forfeited, and was by order of the court above named accordingly estreated into his majesty's court of exchequer. Given under my hand, this 6th day of May, 1780.

A similar
certificate.
(y)

To the right honourable sir John Skinner, knight, &c.

I hereby humbly certify, that at the assizes and general

(x) From Mr. Nicholl's MS. 93. (y) From Mr. Nicholl's MS. 93.

gaol delivery abovementioned, Miller Sadler, esq. then and yet one of his majesty's justices of the peace for the county of Warwick, did certify the recognizance above specified, taken before him on the nineteenth day of April, in the year of our Lord 1779, conditioned for the said William Tovey's personal appearance at the next general assizes and gaol delivery to be held at Warwick, in and for the county of Warwick, to prefer a bill of indictment against Joshua Weston, late of the city and county of the city of Litchfield, for feloniously uttering and publishing in the parish of Sutton Coldfield, in the said county of Warwick, on the twenty-third day of March, 1778, a* certain bill of exchange as a true bill, he well knowing the same to be forged and counterfeited, with intent to defraud the said William Tovey, and give evidence concerning the same, at which assizes and general gaol delivery abovementioned the said William Tovey did not appear, and prefer any bill of indictment against the said Joseph Weston, according to the condition of the said recognizance, whereby the said recognizance became forfeited, and was by order of the court and justices above named accordingly estreated into his majesty's court of exchequer, as appears by the records in my office, given under my hand the twenty-first day of April, in the year of our Lord, 1780. [* 484]

To the right honourable sir John Skynner, knight, &c.

I hereby humbly certify, that at the assizes and general session of oyer and terminer and gaol delivery, held at Warwick, in the county of Warwick abovementioned, Francis Stratford, esquire, then one of his majesty's justices of the peace for the county of Warwick, did certify on the said thirty-first day of March, before sir Sydney Stafford Smythe, knight, then one of the barons of his majesty's court of exchequer, the recognizance above specified taken before him on the twenty-ninth day of October, in the thirty-second year of the reign of his late majesty, king George the 2d, and in the year of our Lord, 1758, conditioned for the said Richard Cotchit's personal appearance at the then next assizes to be holden at Warwick, in and for the said county, then and there to answer to an indictment to be preferred against him by James Ball, game-keeper to sir Roger Newdigate, of Arbury, baronet, for an assault and battery on the said James Ball, and not depart without leave of the court, at which assizes and general sessions of oyer and terminer and gaol delivery abovementioned the said Richard Cotchit did not appear to answer, but made default though solemnly called according to the condition of the said recognizance, whereby the said recognizance became forfeited, and was by an order of the court accordingly estreated into his majesty's

Clerk of
assizes cer-
tificate of
non appear-
ance of
defendant
whereby his
recognizance
forfeited. (z)

(z) From Mr. Nicholl's MS. 96.

[* 485]

Form of es-
treat from
assizes. (a)

court of exchequer; and I do hereby further certify, that it appears that at the same assizes a bill of indictment was preferred by the said James Ball against Charles Sidwell, John Sidwell, Mary Sidwell, and Mary Sidwell the younger, and Richard Cotchit, by the name and addition of Richard Cotchit, of Chivers Coton, yeoman, for an assault, and that the same was found a true bill, and that at the same assizes the said Charles Sidwell, John Sidwell, Mary Sidwell, and Ma-
ry Sidwell the younger, appeared* and pleaded guilty to the same indictment, and were fined one shilling each, and were discharged; and that it does not appear that the said Richard Cotchit has ever appeared or answered to the said indictment, given under my hand this fourth day of May, 1780.

Northamptonshire. An estreat of all fines, issues, amercia-
ments, and recognizances, set and forfeited to our lord the king, at Northampton, in and for the county of Northampton, on Tuesday the 19th day of July, in the nineteenth year of the reign of our sovereign lord George the third, king of Great Britain, &c. before the honourable sir Henry Gould, knight, one of the justices of our said lord the king, of his court of common pleas, the honourable sir Beaumont Ho-
tham, knight, one of the barons of our said lord the king of his court of exchequer, and others their fellows, justi-
ces of our said lord the king, assigned to inquire of all treasons, felonies, and other offences committed within the county aforesaid, and also to hear and determine the same, and also before the same justices assigned to deliver the gaol for the said county of Northampton of the prisoners therein being.

£. s. d.

Of Rogers Parker, esq. sheriff of the said county, for a fine of 3 shillings and fourpence set on John Gibbons, late of the parish of Blakesley, in the county aforesaid, labourer, for a felony whereof he was indicted and con-
victed, and which he paid to the said sheriff in court - - - - -

0 3 4

Of the same sheriff, for the fine of three shillings and fourpence set on William Seear, late of the hamlet of Lower Boddington, in the county aforesaid, farmer. for a nuisance there, whereof he was indicted and convict-
ed, and which he paid to the said sheriff in court - - - - -

0 3 4

Of John Turman, of Saint Martins in Peter-
boborough, yeoman and juryman, proved to be

(a) From Mr. Nicholl's MS. next form and notes.
1123 Ante 1 vol. 816. See

£. s. d.

duly summoned between our sovereign lord the king and the prisoners at the bar, because he made default, and did not appear when called for before the said justices at the day and place aforesaid, as he ought to have done, therefore he is fined, and his fine is set at three pounds -

3 0 0

Of* Richard Turtle, of the same, yeoman, another juryman, proved to be duly summoned between our sovereign lord the king and the prisoners at the bar, because he made default, and did not appear when called for before the said justices, at the day and place aforesaid, as he ought to have done, therefore he is fined, and his fine is set at forty shillings - - - - -

2 0 0

[* 486]

Lincolnshire. An estreat of all fines, issues, amercia-
ments, and recognizances, set and forfeited to our lord the
king, at the castle of Lincoln, in and for the county of Lin-
coln, on Saturday the seventeenth day of July, in the year
aforesaid, before the same justices.

The like in
Lincolnshire.

£. s. d.

Of William Taylor, a prisoner in the same gaol, for a fine of one shilling set on him for an assault and misdemeanour, at the parish of Helpingham, in the same county, whereof he was indicted and convicted, and ordered to be imprisoned in the same gaol for one year next ensuing, and until the said fine be paid - - -

0 1 0

Of ———, esq. mayor of the borough of Stamford, in the county aforesaid, for his neglect in not attending the court and justices above-named, although solemnly called, which, by the duty of his said office, he ought to have done, he is fined, and his fine is set at forty shillings

2 0 0

Warwickshire. As estreat of all fines, issues, amercia-
ments, and recognizances, set and forfeited to our lord the
king, at Warwick, in and for the county of Warwick, on
Saturday, the thirty-first day of July, in the year aforesaid,
before the same justices.

The like in
Warwick-
shire.

£. s. d.

Of William Tovey, of Dosthill, in the county of Warwick, gentleman, because he came not before the said justices at the day and place aforesaid, to prefer a bill of indictment against Joseph Weston, late of the city and county of the city of Litchfield, in a case of felony, and give evidence concerning the same, as by a recognizance entered into on the nineteenth day of April, in the year aforesaid, before Miller Sadler, esq. one of his majesty's justices of

peace for the county aforesaid, in the penalty of two hundred pounds, he undertook - - - - £. s. d.
200 0 0

[* 487] Of* Thomas Elvins of Birmingham, builder, juryman, proved to be duly summoned between party and party, because he made defaults, and did not appear when called for before the said justices, at the day and place aforesaid, as he ought to have done, therefore he is fined, and his fine is set at forty shillings - - - - 2 0 0

It is ordered that the fines of all justices of the peace, of grand jurymen, coroners, chief constables, and bailiffs, and the issues of the juries of life and death, and between party and party, (except as aforesaid,) be spared through the whole circuit.

By the court:
F. W. deputy clerk of the assizes
in the midland circuit.

The form of an estreat from the sessions.
Monmouthshire. An extract of all fines, issues, ameri-
cements, recognizances, and forfeitures set, lost, imposed, and
forfeited to our sovereign lord the king at the general quarter
sessions of the peace of our said lord the king, holden at the
Guildhall in the town of Uske, in and for the said county of M.
on Wednesday the _____ day of _____, in the _____ year
of the reign of _____, before _____ and _____, esquires
justices of our said lord the king, assigned to keep the peace
in the said county, and also to here and determine divers
felonies, trespasses, and other misdemeanours in the same
county committed, Z. Y. esquire, clerk of the peace of the
county aforesaid then and there attending.

The estreat of fine upon an indictment. Of O. O. late of _____, [as in the indictment] for a trespass and assault (c) at _____, afore-
said, in the county aforesaid, whereof he is in-
dicted and convicted, and his fine is set at six
shillings and eight-pence, which he paid to the
sheriff in court [if the case be so] - - - - 0 6 8

When the party is committed for non-payment of his fine. Of O. O. late of _____, labourer, for a tres-
pass, assault, and riot at _____ aforesaid, in the
county aforesaid, whereof he is indicted and
convicted, and his fine is set at five pounds ;
and he is committed to his majesty's gaol at
_____, there to remain until he shall pay the
said fine - - - - 5 0 0

(b) Williams, J. Estreat. Burn, J. Estreat. Cro. C. C. 8th Ed. 23 to 27. Ante 1 vol. 816. (c) The estreat must mention for what offence the fine was imposed, 7 Hen. 4. c. 3.

Of * J. D. of ———, in the county of M. blacksmith, because he came not now here to answer to all and singular such things which against him on the part of our said lord the king should be objected, as by a certain recognizance taken before J. P. esq. one of the justices of our said lord the king, assigned to keep the peace in the county of M. he undertook

The first recognizance to answer as to the principal.
[* 488]

20 0 0

Of John Roe, of ———, joiner, one of the pledges of the said J. D. because he had him not to answer as above - - - - -

As to one of the bail.

10 0 0

Of Richard Roe, of ———, the other of the pledges of the said John Doe, for the like - -

As to the other bail.

10 0 0

Of Richard Fen, of ———, dyer, one of the mainpernors of W. W. because he had him not now here to answer as above, as by a certain recognizance taken before J. P. esq. one of the justices, &c. he undertook - - - - -

The form of the estreat of a recognizance where the offender is not bound.

10 0 0

Of David Denn, of the same place, pewterer, the other of the mainpernors of the said W. for the like - - - - -

10 0 0

Of Jacob Tonson, of ———, because he came not now here to prosecute the law with effect, and give evidence on the behalf of our said lord the king against C. D. in a cause of fraud and misdemeanour, as by a certain recognizance taken before R. N. esq. one of the justices of our said lord the king, undertook - - - - -

The estreat of a recognizance forfeited for not prosecuting and giving evidence in the case of a fraud.

10 0 0

Of W. D. of ———, silversmith, because he came not now here to prosecute his traverse upon a certain indictment of trespass and assault, as by a certain recognizance he undertook - - - - -

For not prosecuting a traverse.

20 0 0

Of N. M. of ———, victualler, one of the pledges of the said W. because he had him not to prosecute his traverse as above - - - - -

20 0 0

Of M. O. of ———, weaver, the other of the pledges of the said W. for the like. - - - - -

20 0 0

You shall swear that these estreats now by you delivered are truly and carefully made up and examined; and that all fines, issues, amerciaments, recognizances, and forfeitures, which were set*, lost, imposed, or forfeited, and in right and due course of law ought to be estreated in the court of exchequer, are, to the best of your knowledge and understanding, therein contained; and that in the same estreats are also contained and expressed all such fines as have been paid into

Oath administered to clerk of peace by the barons of the exchequer on delivery of estreat.
(d)
[* 489]

(d) 4 and 5 W. and M. c. 24. J. Estreat.
s. 5. Williams, J. Estreat. Burn,

the court, from which the said estreats are made, without any wilful or fraudulent discharge, omission, misnomer, or defect whatsoever: so help you God.

Petition to
discharge es-
treat. (e)

To the Right Hon. Sir Archibald Macdonald, knight,
lord chief baron of his majesty's court of exchequer at
Westminster, and the rest of the barons there.

The humble petition of G. H. of ———, in the county of
Middlesex, labourer.

Sheweth,

That your petitioner on the — day of — last, together with C. D. of, &c. became bound in a recognizance to his present majesty in the sum of —/l. conditioned for the personal appearance of the said C. D. at the then next general quarter sessions of the peace to be held at Clerkenwell in and for the said county, to answer to a bill of indictment to be then and there preferred against him for an assault on A. B. of, &c.; that the said C. D. instead of appearing at the said sessions, according to the condition of the said recognizance, hath absconded, and hath not since been heard of.

That default having been made in the performance of the condition of the said recognizance by the non-appearance of the said C. D. at the said quarter sessions, the same became forfeited, and hath been estreated into this honourable court.

That your petitioner is poor and indigent, and much reduced in his circumstances since he entered into the said recognizance, and receives parochial relief from —, as appears by the affidavit hereto annexed.

Your petitioner therefore humbly prays your lordships will be pleased to order your petitioner's said recognizance to be discharged without the quietus. And your petitioner shall ever pray, &c. G. H.

The Lord Treasurer's Remembrancer's Office, Easter Term,
51 Geo. 3. 1811.

Cases re-
specting es-
treats. (f)

In the Ex-
chequer.

Dorset, in
the great
roll of 47.

Geo. III.

Dorset, same
roll.

[* 490]

Dorset, in
the great
roll of 48
Geo. III.

In the matter of an estreated recognizance of William Critchell, and Richard Spencer and James Critchell his two bail, because he did* not appear and answer as an accessory after the fact in the case of felony at the Lent assizes 1807, which had been respited to the following assizes.

The like of John Diment, and William Henning and Richard Fudge his two mainpernors, because he did not appear and answer at the same assizes for an assault with intent to commit a rape.

The like of John Miller the younger, because he did not appear and give evidence against John Wheeler, for a felony at the Lent assizes, 1808.

These three matters came before the court on the motion

(e) Toone, 370. Cro. C. C. 8th
Ed. 23. to 27.

(f) From Mr. Nicholl's MS.
154.

of Wm. Grimwood, who had obtained orders nisi therein respectively, on affidavits filed in each case, calling on the clerk of the assizes to shew cause why the several recognizances were estreated, and why he should not pay the costs of the several applications of the parties for discharging them out of the estreats.

In the two first cases the affidavits merely stated that the parties had attended during the continuance of the assizes, and in the last that John Miller had also attended for the same time, and was ready to give evidence. Constats of each debt had been extracted from the great roll, and the clerk of the assizes had certified on the back of each constat the respective causes of forfeiture in the usual manner, which certificates were duly filed in the court of record, stating respectively that the several parties did not appear, answer, and give evidence according to the condition of their recognizance, whereby they became severally forfeited, and were estreated accordingly, pursuant to the directions of the statute.

The solicitor general shewed cause on behalf of the clerk of the assizes (wherein the crown is apparently interested) on the several certificates, all of which confirmed the facts contained in the different constats of the debts which had been estreated and returned into court on oath, by the clerk of the assizes, and he contended (in which the court concurred) that the clerk of the assizes had done no more than his duty required, and as he was bound to do by the statute of 4 & 5 William and Mary, cap. 24. besides subjecting himself to very severe pains and penalties under the statute of 22 and 23 Car. 2. cap. 23. § 9. if he had omitted to estreat the recognizances; and he also insisted that the ground of complaint, if any there was, originated in the negligence of the parties themselves, or their advisers, in not appearing according to the course of the court. Upon which it was remarked by Mr. Baron Thompson, that it not unfrequently happened that a party bound* by a recognizance to appear and answer at an assizes attended in court (as alledged by the parties in these affidavits) silently watching the progress of the protecuror's proceedings, and as soon as he could learn that no bill was preferred or found against him, hastily disappeared without applying to have his appearance recorded, which he should have done, to enable the court to order the cancellation of his recognizance, as otherwise such an attendance was in law no appearance at all.

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The court thereupon discharged the several orders nisi, with costs to be paid to the clerk of the assizes.

N. B. About the year 1789 an application of a similar nature was personally made against the then clerk of the assizes for the Oxford circuit, supported likewise by affidavits; and upon his showing cause it was pressed by the counsel for the

parties applying, that the clerk of the assizes should support his certificates by affidavits, but which he as the estreating officer, and being then in court, refused to do. Whereupon the lord chief baron Eyre observed, that the certificate of the clerk of the assizes was matter of record to which the court must give credit, and that if the parties complaining denied the truth of it, they must seek their remedy in another way. Thus the matter dropped, and nothing more was done, there being no pretence for the application.

Writ of restitution from the justices of gaol delivery, after conviction of the felon, to restore the prosecutor his goods, under St. 21 H. VIII. c. 11. (g)

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William the third, &c. to E. F. greeting. Whereas at the delivery of our gaol of Newgate held for the county of Middlesex, at justice hall in the Old Bailey, in the suburbs of the city of London, on Wednesday, to wit, the 9th day of December, in the eighth year of our reign, before G. H. knight, mayor of the city of London, J. K. knight, chief justice of our bench, and others his companions, our justices assigned to deliver our gaol of Newgate from the prisoners in the same being, at the recent prosecution of A. B. one C. D. late of the parish of Enfield, in the county of Middlesex, labourer, stands convicted, for that he on the 28th day of August, in the eighth year of our reign, at the parish aforesaid, in the county aforesaid, three red pyed heifers, each of the value of 3*l*. 5*s*. and one other black heifer of the value of 3*l*. 5*s*. of the goods and chattels of one A. B. then and there found, being then and there feloniously stole, took, and drove away against the peace of our crown and dignity, as by the record thereof more fully is manifest and appears; and whereas on the information of the said A. B. we are now informed that the several* heifers, goods, and chattels aforesaid have come to your hands, and are now in your custody, we therefore being willing that what is just and reasonable should be done to the said A. B. do command you and firmly enjoin you, that without delay you restore and deliver to the said A. B. the heifers, goods, and chattels aforesaid, or such of them as have come to or now are in your hands, according to the form of the statute in this case made and provided, or that you yourself be before our justices assigned to deliver our gaol of Newgate from the prisoners in the same being, at the next delivery of our gaol aforesaid, to be held for the county of Middlesex, at justice hall, on Wednesday aforesaid, to wit, &c. to shew wherefore you have been unwilling or unable to do it, and further to do what our court shall further consider in that behalf, and have there then this writ. Witness the said E. C. knight, mayor of the city of London aforesaid, at justice hall aforesaid, 9th day of December in the eighth year of our reign. Harcourt.

(g) See Trem. P. C. 316. It writ, ante 1 vol. 820. is not the practise to issue such a

These are to certify, that at the session of gaol delivery of Tyburn ticket, or a certificate to discharge a person from parish offices, &c. for apprehending and prosecuting a party unto conviction for burglary at the Old Bailey. (h) Newgate, holden for the county of Middlesex at justice hall in the Old Bailey, in the suburbs of the city of London, on Wednesday the — day of this instant —, before us whose hands are hereunto set, and others his majesty's justices assigned to deliver the said gaol of the prisoners therein being, A. B. was convicted and attainted of felony and burglary in breaking and entering the dwelling-house of C. D. in the night time of the sixteenth day of June last, in the parish of St. Martin in the fields, in the county of Middlesex, with intent to steal the goods, chattels, and monies of the said C. D. in the said dwelling house. And it is hereby further certified, that the said C. D. was the person who did apprehend and take him the said A. B. and did prosecute him so apprehended and taken until the said A. B. was convicted of the said felony and burglary. And pursuant to an act of parliament made in the tenth and eleventh years of the reign of his late majesty king William the third, intituled "An act for the better apprehending, prosecuting, and punishing of felons that commit burglary, house-breaking, or robbery in shops, warehouses, coach-houses, or stables, or that steal horses," we the said justices do hereby further certify, that by virtue thereof, and of the said act of parliament, he the said C. D. for the apprehension and conviction aforesaid, shall, and may be, and he is hereby* declared to be discharged of and from all and all manner of parish and ward offices within the parish of St. Martin in the fields aforesaid. [* 493]

Dated this — day of — in the — year of the reign of our sovereign lord George the third, &c. and in the year of our Lord 1782.

Know all men by these presents, That I, the within named C. D. of the parish of St. Martin in the fields, in the county of Middlesex, glover, in pursuance of the power given me by the act of parliament within mentioned, and in consideration of the sum of fifteen pounds of lawful money of Great Britain to me in hand paid by E. F. of the same parish and county, linen-draper, the receipt whereof I do hereby acknowledge, have bargained, sold, assigned, and transferred, and by these presents do bargain, sell, assign, and transfer unto the said E. F. as well the certificate within written, as all the right, interest, and demand of me the said C. D. thereto, and all exemptions, privileges, benefit, and advantage that may be had and made thereof by virtue of the said act of parliament as fully as I myself might or could have had if these presents had not been made. And I the said Assignment of such certificate by indorsement. (i)

(h) See form, Cro. C. C. 8th vol. 815.
 Ed. 94. 3 Smith, 182, Ante 1 (i) Cro. C. C. 8th Ed. 95.
Crim. Law. Vol. IV. 3 N

C. D. by these presents do hereby covenant to and with the said E. F. that I have not assigned the said certificate other than by these presents, nor have made use thereof myself, nor have done, nor shall hereafter do, any act whereby the said E. F. shall or may be deprived of the benefit or advantage which he is entitled to thereby, and by virtue of the said act of parliament. In witness whereof I have hereunto set my hand and seal this ——— day of ———, in the ——— year of the reign of our sovereign lord George the third, king of Great Britain, &c. and in the year of our Lord, 1782.

Order of sessions for the discharge of a clerk of the peace for extortion. (k)

Whereas, by a complaint and charge in writing at this sessions, held the said ——— day of ———, preferred and exhibited to this court against R. B. of Appleby, in the county of W. gentleman, clerk of the peace for the said county, who the ——— day of ——— last past, and during the whole last general quarter sessions of the peace held for this county, did claim and exercise the said office of clerk of the peace for this county, the said R. B. was charged with divers misdemeanours by him committed in the execution of the said office of clerk of the peace for this county, viz. that he the said R. B. the said ——— day of ——— last did, under colour of his said office, extorsively exact* and receive from one prisoner —/ and compel him to pay to the said R. B. the sum of eight shillings and sixpence, for a subpoena to summon four witnesses to give evidence for him at the general quarter sessions of the peace to be holden on, &c. in and for the said county, which subpoena contained but twelve lines, and for which no other or greater sum than ——— shillings was due to the said R. B. and that the said R. B. also did, at the said general quarter sessions held for this county, under colour of his said office, extorsively exact and receive from one T. S. of Woodside, a poor labourer, and force him to pay to him the said R. B. the sum of nine shillings more than his just fees, for, &c. and also that the said R. B. had committed divers other exactions and extortions, particularly mentioned in the said charge in writing; and now at this general quarter sessions held by adjournment on the said ——— day of ———, upon due examination in open court of the said matters, alledged against the said R. B. who by order of this court hath been duly summoned to answer the same, and did attend in person, and had particular notice of each charge against him, and made defence by his counsel thereunto; and upon full proof of the premises made in open court, it doth appear to this court that the said R. B. hath misdeemeaned himself in his said office of clerk of the peace of this

(k) This is the corrected original order *Ld. Raym.* 1268. form, 2 *Stark.* 590. See the

county, and in execution thereof, by exacting and extorting, by colour of his said office, from the said prisoner —/. on the said ——— day of ——— last past, the sum of six shillings for the said subpoena to summon the said four witnesses, which is three shillings and sixpence more than the accustomed fee of right due for the same, and by exacting and extorting, by colour of his said office, at the last general quarter sessions, from the said T. S. nine shillings more than his just fees; and thereupon this court doth openly in court discharge and remove the said R. B. from the office of clerk of the peace of this county of W. and he is thereby by this court discharged from the same accordingly.

CHAPTER* XXII.

[* 495]

PROCEEDINGS BY INFORMATION IN KING'S BENCH.

In the king's bench.

T. S. of, &c. esq. lieutenant colonel of the East Mendip volunteer infantry, J. A. C. of the parish of, &c. clerk, and S. B. of, &c. in the said county of Somerset, esq. severally make oath and say, and first deponent, T. S. saith that R. B. D. of Chew Magna, in the county of Somerset, attorney at law, did on or about the twenty-eighth day of February last, cause to be inserted in the public newspaper called the Bath Chronicle, a certain scandalous and defamatory libel relating to this deponent, and dated at Chew Magna, Affidavit to ground motion for an information against attorney for a libel, denying the facts contained therein. (a)

(a) Ante 1 vol. 856, 7, 8.

[* 496]

the twenty-second of February last, and purporting to be addressed to the public, and to be subscribed by the said R. B. D. and a copy of which said libel is hereunto annexed, and stands at the bottom of the third column of the second page of the newspaper hereunto also annexed. And this deponent, T. S. further saith, that he admits it to be true that he did employ the said S. B. as his mason, as in the said libel is stated, but that he never* refused to pay him, the said S. B. the amount of his bill as therein mentioned, as the said S. B. never delivered a bill of such amount to deponent, neither had he, the said S. B. finished the whole of the work contracted for at the time the deponent sent the said R. B. D. the letter of the twenty-eighth day of June, 1804, mentioned in said libel, saith, that he resides about five miles from the place of residence of the said R. B. D. that he had no interview, communication, or correspondence with the said R. B. D. until nearly eight months after deponent sent to the said R. B. D. the said letter of the 28th June, 1804, mentioned in the said libel, nor did he at any time between that time the interview hereinafter mentioned, give the said R. B. D. any provocation whatsoever, nevertheless the said R. B. D. upon the said interview with deponent, in the said libel mentioned, which was upwards of seven months after deponent had sent the said letter to the said R. B. D. as aforesaid, most grossly abused and insulted this deponent, and not only made use of the said language in the latter part of the said libel mentioned, but of more gross, insulting, and ungentlemanly language to this deponent, which induced deponent, upon the advice of his brother officers in the said regiment, and also of J. H. S. esq. major of the south Devon regiment of militia, (who is a friend of deponent) not to fight the said R. B. D. saith that the Rev. Mr. C. mentioned and alluded to in the said libel by the description of the Rev. Mr. C. never did deliver to him any such message as in the said libel is untruly stated, nor did the said Rev. Mr. C. or any other person on the behalf of the said R. B. D. deliver to or for deponent any insulting message from the said R. B. D. and deponent hath been informed, and verily believes, that the said R. B. D. never did send the said message to this deponent by the said Rev. Mr. C. nor did the said Rev. Mr. C. ever inform the said R. B. D. to the effect in the said libel mentioned, saith that he never did desire the said capt. B. in the said libel mentioned, to call upon the said R. B. D. and to say as in the said libel is untruly stated, and deponent hath been informed by the said capt. B. and verily believes that he, the said capt. B. never stated to the said R. B. D. that he the said capt. B. was desired by deponent to communicate the message to the said R. B. D. in the said libel mentioned. And this deponent, J. A. for himself saith, that he never was desired by the said R. B. D. to de-

liver the message in the said libel mentioned, or any other message to the said deponent, T. S. nor did this deponent ever inform the said R. B. D. that he had so communicated it to the said T. S. as in the said libel is untruly stated. And this deponent, S. A. for himself saith, that he never was desired by the said deponent, T. S.* to convey the said message to the said R. B. as stated in the said libel, or any other message whatsoever; nor did deponent inform the said R. B. D. that he was desired by the said T. S. to give such information to the said R. B. D. as in the said libel is untruly stated. [* 497]

T. S.
J. A. C. clerk.
S. B.

Sworn by the deponent, T. S. at Butcombe, aforesaid, this twentieth May, 1805, before me, John Fisher, a commissioner.

Sworn by the deponent J. A. C. and S. B. at Blagdon aforesaid, this twentieth day of May, 1805, before me, John Fisher, a commissioner.

To move for a rule to shew cause why a criminal information should not be filed against the within named R. B. D. Wednesday next, after five weeks of Easter, in the ——— year of king George the third. Indorsement on brief of this affidavit for counsel.

Somersetshire. Upon reading the affidavit of T. S. esquire, and others, and part of a printed paper thereto annexed, beginning with the words Chew Magna, and ending with the words R. B. D. it is ordered that the first day of the next term be given to R. B. D. gentleman, to shew cause why an information should not be exhibited against him for certain misdemeanours in printing and publishing certain scandalous libels upon notice of this rule to be given to him in the meantime. Rule to shew cause. (b)

On the motion of Mr. ———.
By the court.

In the king's bench.

J. F. of the parish of Churchill, in the county of Somerset, gentleman, maketh oath, and saith that he, this deponent, did on the thirty-first day of May last past, personally serve R. B. D. gentleman, with a true copy of the rule of court hereunto annexed by then delivering such true copy into the hands of the said R. B. D. Affidavit of service. (c)

Joseph Fisher.

Sworn at the parish of Churchill aforesaid, this fourteenth day of June, 1805, before me, J. ———, a commissioner.

(b) This rule was made absolute, see ante 1 vol. 833.

(c) Ante 1 vol. 859.

The like in
another form.

(d)

[* 498]

In* the king's bench. The king against A. B. esq. F. G. clerk to W. H. of Garden-court, Temple, London, gentleman, maketh oath and saith, that he did, on Monday, the 16th day of January instant, personally serve the above named A. B. esq. with a rule of this honourable court made in this matter, on Saturday next, after the octave of St. Hilary in this present Hilary term, whereby it was ordered, that Friday next be given to the said A. B. esq. one of his majesty's justices of the peace for the county of E. to shew cause why an information shall not be exhibited against him for certain misdemeanours, upon notice of the said rule to be given to him in the mean time by then delivering to, and leaving a true copy of the said rule with the said A. B. and at the same time shewing the said A. B. the said original rule itself.

F. G.

Sworn in court, the 29th day of January, 1802, by the court.

Recogni-
zance to pro-
secute. (e)

County of E. Be it remembered, that, on the sixth day of February, in the 42nd year of the reign of our sovereign lord George the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, &c. before H. I. esq. one of the keepers of the peace, and justices of our said lord the king, in and for the said county of E. cometh C. D. of H. in the said county, victualler, and acknowledged himself to owe to A. B. late of R. in the said county of E. esq. the sum of 20*l.* of lawful money of the united Kingdom of Great Britain and Ireland, current in Great Britain, upon condition to prosecute with effect a certain information for divers misdemeanours exhibited against him the said A. B. by J. L. esq. coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, whereof he is impeached, and to perform all such orders as the said court shall direct in that behalf. H. I.

Taken and acknowledged as above before me.

Forms of in-
formations.

(f)

The forms of informations will be found in the second volume, under the heads to which they respectively apply, see the commencement and conclusion, 2 vol. 6—7, and see an information for disturbing a dissenting congregation, 2 vol. 29; for breaking open the house of an ambassador, 53; for a libel on the royal family, 88; for seditious words, 96; for assaulting excise officers, 137; for striking in open court, 208; for compounding a penal action, 223; against a justice of the peace for oppression, 236, &c. &c.

(d) Hand's Prac. page 88, 88. ante 1 vol. 863.
ante, 1 vol. 859.

(f) Ante, 864, &c.

(e) See a form, Hand's Prac.

George* the third, by the grace of God, of Great Britain [* 499]
 France and Ireland, king, defender of the faith, and so forth, Subpœna for
 to John Lambert greeting: we command you, firmly injoin- offender's
 ing you that laying aside all excuses and pretences whatso- appearance
 ever, you personally be and appear before us, at Westmin- trial. (g)
 ster, on Friday next, after the morrow of All Souls, to answer
 to us, touching and concerning those things which shall then
 and there be objected against you on our behalf, and further
 to do and receive all and singular such matters and things
 as our court shall then and there consider of, and concerning
 you in this behalf, and this you are not to omit under the
 penalty of one hundred pounds, to be levied on your goods
 chattels, lands and tenements, if you shall make default in
 the premises. Witness Lloyd, Lord Kenyon, at Westmin-
 ster, the first day of July, in the twenty-ninth year of our
 reign.

By the court,

Templer.

Sir Archibald Macdonald, knt. attorney general of our said
 the king, prosecutes this writ against the within named de-
 fendant, upon an information exhibited against him by
 Richard Pepper Arden, esq. late attorney general in the
 court of our said lord the king, before the king himself, for
 certain trespasses, contempts, assaults, and misdemeanours,
 whereof he (with one other) is impeached.

And now, that is to say, on Wednesday next, after one Entry of
 month from the day of Easter in this same term, before our plea of gene-
 said lord the king, at Westminster, cometh the said I. M. by ral issue not
 T. O. I. his clerk in court, and having heard the same infor- guilty. (h)
 mation read, he saith that he is not guilty thereof, and here-
 upon he putteth himself upon the country.

To the king's most excellent majesty. The humble peti- Petition for
 tion of C. D. of L. in the county of E. esquire, sheweth, that king's coun-
 in Hilary term last, an information was exhibited in your sel. (i)
 majesty's court of king's bench, against your petitioner, for
 certain misdemeanours, to which your petitioner having
 pleaded not guilty, the same is to be tried at the next assizes
 for the county of E. that your petitioner is advised to have
 the assistance of W. G. esquire, one of your majesty's coun-
 sel, learned in the law on such trial, and whenever else it
 shall be necessary in the said cause. Your* petitioner there- [* 500]
 fore most humbly prays your majesty will be graciously
 pleased to grant your royal licence and dispensation to the

(g) See form, 4 Wentw. 490, ante 1 vol. 865. The defen-
 dant having been apprehended, and having entered into a recog-
 nizance, which had been for-
 feited, he was nevertheless pro-
 ceeded against by a common
 subpoena, as above.
 (h) Hand's Prac. 129, ante, 1
 vol. 869.
 (i) This petition need not be
 signed, Hand's Prac. 129.

said W. G. to be of counsel for your petitioner in the said cause, as often as there shall be occasion. And your petitioner shall ever pray, &c.

License for
counsel. (k)

George R.

Whereas C. D. of L. in the County of E. esquire, hath by his petition humbly represented unto us that [*setting forth the allegations of the petition*] the petitioner hath therefore humbly prayed us that [*stating the prayer of the petition*]. We being graciously pleased to condescend to do this request, do accordingly by these presents dispense with the said W. G. and grant him our royal license to be of counsel for the petitioner in the said cause as often as there shall be occasion.

Given at our court at St. James's, the 9th day of July, 1802, in the forty-second year of our reign.

By his majesty's command,

W. G. esquire,
Licence to plead.

Pelham. (l)

Mr. Pollock, the chief clerk, with whom the petition is lodged at the secretary of state's office, will immediately give his certificate upon which it is customary for the counsel to accept the brief. Mr. P. is to be paid for the licence 8*l.* 18*s.* 6*d.* and there must be a separate one for each counsel.

The prosec-
utor's no-
tice of mo-
tion for the
judgment of
the court on
the defen-
dant. (m)

In the king's bench.

The king against A. B. esquire.

Sir,

Take notice that this honourable court will be moved on Monday in the fifteenth day of November instant, or so soon after as counsel can be heard, that you the said defendant A. B. may be called to appear and receive the judgment of the said court upon the information whereof you stand convicted.

Dated the sixth day of November, 1802.

Yours, &c.

To A. B. esquire,
the above defendant.

W. H.
solicitor for the prosecution.

The defen-
dant's notice
of his ap-
pearing to
receive the
judgment.
(n)

In the king's bench.

The king against C. D. esquire.

Sir,

I do hereby give you notice that the above named defendant C. D.* will on Tuesday the sixteenth day of November instant, personally be and appear in open court in order to receive the judgment of the said court for the misdemeanours whereof he stands convicted.

Dated the tenth day of November, 1802.

To Mr. W. H.
solicitor for the prosecution.

Yours, &c.

W. N.

solicitor for the said plaintiff.

(k) Hand's Prac. 130.

(m) Hand's Prac. 131.

(l) This is the secretary of
state's signature.

(n) Hand's Prac. 131.

If in custody say "be brought into this honourable court in order," &c.

Pleas before our lord the king at Westminster, of the term of St. Hilary, in the twenty-ninth year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France, and Ireland king, defender of the faith, and in the year of our Lord 1789. Roll 2.

Amongst the pleas of the king.

London, amongst the informations of last term. No.

Be it remembered that sir A. M. knt. attorney-general of our present sovereign lord the king, who for our

said lord the king prosecutes in this behalf, in his proper person came here into the court of our said lord the king, before the king himself at W. in the county of M. on Friday next after fifteen days from the day of Saint M. last past, and for our said lord the king brought into the court of our said lord the king before the king himself then and there, a certain information against J. A. late of the parish of Saint D. in the west, in the ward of F. without, in L. printer, which said information followeth in these words, that is to say,—London, to wit. Be it remembered that, &c. [*Here copy information to the end.*]

And now, that is to say, on Friday next after the octave of Saint Hilary in this same term, before our said lord the king at W. cometh the said J. A. by J. F. A. his clerk in court, and having heard the said information read, he saith that he is not guilty thereof, and hereupon he putteth himself upon the country; and the aforesaid A. M. who for our said lord the king in this behalf prosecuteth, doth the like, therefore let a jury thereupon come before our said lord the king at W. on Thursday next after the octave of the Purification of the blessed Virgin Mary, by whom the truth of the matter will be the better known, and who are not of the kindred of the said J. A. to try upon their oath whether the said J. A. be guilty of the premises aforesaid or not, because as well the said sir A. M. who for our said lord the king in this behalf prosecuteth, as the said J. A. have thereupon put themselves upon the said jury, the same day is given as well to the said sir A. M. who for our said lord the king in this behalf prosecuteth, as the said J. A. on which said Thursday* next after the octave of the Purification of

Record of conviction on trial, on an information for a libel in a newspaper, filed by the attorney general.

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the blessed Virgin Mary, before our said lord the king at W. come as well the said sir A. M. who for our said lord the king in this behalf prosecuteth, as the said J. A. by his clerk in court aforesaid, and the sheriffs of the said city of L. have returned the names of twelve jurors, none of whom come to try in form aforesaid, therefore the sheriffs of the said city of L. are commanded that they distrain the bodies of the jurors aforesaid by all their lands and chattels in their bailiwick, so that neither they nor any one for them do put their hands to the same, until they shall have another com-

mand from our said lord the king for that purpose, and that they answer to our said lord the king for the issues thereof, so that they have their bodies before our said lord the king at W. on Wednesday next after fifteen days from the feast day of Easter, or before the right trusty and well beloved of our said lord the king, Lloyd lord Kenyon, chief justice of our said lord the king, assigned to hold pleas before the king himself if he shall come before that time, that is to say, on Saturday next after the end of the term at the Guildhall of the city of L. according to the form of the statute in such case made and provided, to try upon their oath whether the said J. A. be guilty of the premises aforesaid or not, by default of the jurors aforesaid, who came not to try in form aforesaid, therefore let the sheriffs of the said city of L. have the bodies of the jurors aforesaid, accordingly to try in form aforesaid; the same day is given as well to the said sir A. M. who for our said lord the king in this behalf prosecuteth as to the said J. A. on which said Wednesday next after fifteen days from the feast of Easter, before our said lord the king at W. come as well the said sir A. M. who for the said lord the king in this behalf prosecuteth, as the said J. A. by his clerk in court aforesaid, and the aforesaid chief justice before whom the said jurors came to try in form aforesaid, sent here his record had before him in these words, that is to say, afterwards, on the day and at the place last within mentioned, before the within named Lloyd, lord Kenyon, chief justice of our lord the king, assigned to hold pleas before the king himself, W. J. gentleman, being associated to the said chief justice according to the form of the statute in such case made and provided, come as well the within named sir A. M. knight, attorney-general of our said lord the king, who for our said lord the king, in this behalf prosecuteth, as the within named J. A. by his clerk in court within named: and the jurors of the jury within mentioned being called, some of them, to wit, G. A. &c. merchants, come and are sworn upon the said jury; and because the rest of the jurors of the said jury do not appear, therefore

[* 503] others* of the by-standers named and approved by the sheriffs of the city of L. at the request of sir A. M. knight, attorney-general of our said lord the king, by command of the said chief justice, are newly appointed, whose names are added to the panel according to the form of the statute in such case made and provided; which said jurors so newly appointed, to wit, F. P. of A. W. victualler, J. J. of the same, hair dresser, I. A. of the same, victualler, T. W. of the same, painter, M. L. of the same, taylor, C. F. of C. W. stationer, and G. R. of the same, optician, being called, likewise come and are also sworn upon the said jury; whereupon public proclamation is made here in court for our said lord the king, as the custom is, that if there be any one who will

inform the aforesaid chief justice, the king's serjeant at law, the king's attorney-general, or the jurors of the jury aforesaid, concerning the matters within contained, he should come forth and should be heard : and hereupon the said A. M. offereth himself on the behalf of our said lord the king to do this, whereupon the court here proceedeth to the taking the inquest aforesaid, as well by the jurors aforesaid first impanelled and sworn as by the other jurors now here appearing, who together with the jurors aforesaid first impanelled and sworn, being elected, tried, and sworn to speak the truth touching and concerning the matters within contained, say upon their oath, that the said J. A. is guilty of the premises and information within specified and charged upon him in manner and form as in and by the said information is within alledged against him ; whereupon all and singular the premises being seen and fully understood by the court of our said lord the king now here, it is considered and adjudged by the said court here, that he the said J. A. be taken to satisfy our said lord the king on account of the premises aforesaid.

PROCEEDINGS IN KING'S BENCH AGAINST MAGISTRATES.

Sir,

Take notice that his majesty's court of king's bench at Westminster, will be moved on Saturday the 23d day of January instant, or so soon after as counsel can be heard, for a rule to shew* cause why an information should not be exhibited against you for [*here state the imputed misdemeanour*].

Dated the 16th day of January, 1802.

Yours, &c.

To A. B. esquire, one of his majesty's justices of the peace for the county of E.

W. H.
solicitor for the said C. D.

In the king's bench.

F. G. clerk to W. H. of Garden-court, Temple, London, gentleman, maketh oath and saith, that he did on Saturday the 16th day of January instant, serve A. B. esquire, one of his majesty's justices of the peace for the county of E. with a true copy of the notice hereto annexed, by then delivering to and leaving the same with the said A. B.

Sworn at my chambers, in Serjeants-inn, the 19th day of January, 1802,
Before me N. G.

F. G.

Notice of motion for the information. (n)

Affidavit service of notice of motion. (o)

(n) Hand's Prac. 87. Ante 1 vol. 875.

(o) Hand's Prac. 87. Ante 1 vol. 875.

[* 505]

CHAPTER* XXIII.

OF PLEAS, &c. TO THE JURISDICTION—DEMURRERS TO DECLARATIONS—PLEAS IN ABATEMENT—PLEAS IN BAR, AND PROCEEDINGS THEREON.*

Plea, that the offence is triable only in Scotland, with a demurrer and joinder.
(a)

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Kinloch } AND the said Alexander Kinloch, in his own
ats. } proper person comes, and having heard the in-
the King } dictment aforesaid read, and protesting that he
is not guilty of the premises charged in the said indictment (b),
for plea nevertheless saith, that he ought not to be com-
pelled to answer to the said indictment; because he saith,
that the kingdom of Scotland before and until the time of
the union of the two kingdoms of England and Scotland,
was regulated and governed* by the proper laws and statutes
of that kingdom, and not by the laws or statutes of the

(a) Objections to the jurisdiction must be specially pleaded, and cannot be shewn under the general issue, 2 Hale, 256. 4 Bla. Com. 338. As to this plea in general, see 1 vol. 437, 8, 9. This plea was brought forward on the trial of one of the rebels in 1796. See Foster's Cro. Law, 18. It was held bad on demurrer; on the ground that England and Scotland became one realm by the act of union; and therefore that

a special commission might be issued by 19 Geo. II. c. 9. for offences committed in Scotland as well as in England, both being included in the term "realm," used in the statute. It is, therefore, given here, merely as a form used on a great public occasion.

(b) It is not necessary that the defendant should, in his plea, answer over to the felony, though it will not be improper. 2 Hale, 256.

* As to pleas, replications, demurrers, &c. in general, see 1 vol. ch. xi.

kingdom of England; and that ever since the said union of the said two kingdoms, that part of the realm of Great Britain called Scotland hath been and yet is governed and regulated by the proper laws of that part of the said realm called Scotland, and not by the laws of that part of the said realm called England. And the said Alexander Kinloch farther saith, that within the said kingdom, before the union of the said two kingdoms, and until the said union thereof, and within that part of Great Britain called Scotland, ever since the said union, there hath been and now is a certain court called the Court of Justiciary, and that all and singular offences of high treason committed within the said kingdom of Scotland before and until the said union, and within that part of the realm of Great Britain called Scotland since the said union by the natives thereof apprehended or taken for such offences there (except peers of the realm of Great Britain) have been and of right ought to be enquired of, heard, and determined in the said court of justiciary (c), before the justices of that court, or in some other courts, or before other justices within the said realm of Scotland before the union, and within that part of the realm of Great Britain called Scotland since the said union, and not in any courts, or before any justices within the realm of England before the said union, or within that part of the realm of Great Britain called England since the said union. And the said Alexander Kinloch further saith, that Fochabars, in the shire of Murray, in the said indictment mentioned the place where the said offence, contained in the said indictment, is supposed to have been committed, before and until the said union of the said two kingdoms was within and parcel of the said kingdom of Scotland, and ever since the said union was and now is lying within and parcel of that part of the realm of Great Britain called Scotland. And the said Alexander Kinloch farther saith, that he was born within that part of the realm of Great Britain called Scotland, to wit, at Fochabars aforesaid; and that at the time when the said offence, in the said indictment contained, is therein supposed* to have been committed, and long before that time, and since he the said Alexander Kinloch was resident and commorant (d) within that part of Great Britain called Scot-

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(c) It is necessary, in the plea, to shew not merely that the court in which the indictment is taken has no jurisdiction to try it, but to set forth in what court the proceedings ought to have been commenced, because, if no other place be given, none can be presumed, and it will fol-

low, if there be no other tribunal in which the crime might be prosecuted, that court has jurisdiction, before which the accusation is preferred. 6 East, 588. ante 1 vol. 438.

(d) This part of the plea is manifestly irrelevant; for the place of birth or of usual residence can

land, to wit, at Fochabars aforesaid, and this he is ready to verify; wherefore the said Alexander Kinloch prays judgment of the court of our lord the king here will further proceed upon the indictment aforesaid against him, and that he may be dismissed from the court here of and upon the premises, &c.

Demurrer to such plea. (e) And the said sir Dudley Ryder, knight, attorney-general of our present sovereign lord the king, who for our said present sovereign lord the king in this behalf prosecuteth as to the said plea of him the said Alexander Kinloch, by him above pleaded as aforesaid for our said present sovereign lord the king saith, that the said plea and the matter therein contained are not sufficient in law to preclude the court here from their jurisdiction to hear and determine the high treason mentioned and specified in the said indictment, and above charged upon him the said Alexander Kinloch in and by the said indictment, wherefore for want of a proper and sufficient answer in this behalf he prayeth judgment, and that the said Alexander Kinloch may answer in court here to our said present sovereign lord the king touching and concerning the premises aforesaid.

[* 508] And the said Alexander Kinloch likewise. (f)
Plea to indictment for misdemeanour, that the offence, if any, was committed within the precincts of the town of Beverley, in the county of York, and shewing by letters pa- And now at this day, that is to say, on Friday next after eight days of St. Hilary in this same term, before our said lord the king at Westminster, comes the said C. D. by H. D. his clerk in court, and having heard the said indictment read prays judgment thereof,* and that the same may be quashed; because, protesting that he is not guilty of the supposed offences in the said indictment specified, or of either of them, the said C. D. says, that the said several offences, if any such were, committed at Woodmansey turnpike-bar, in the said indictment specified, were committed within the precincts or liberties of the town of Beverley, in the county of York, and not elsewhere; and the said C. D. further says, that the

be of no consequence even in framing criminal proceedings; as the venue is determined by the place of the crime, and the defendant may be described as of that place. Fost. 21. 7 T. R. 243.

(e) The crown may demur or reply instant, Fost. 17.

(f) On this joinder, the merits of the plea are referred to the court to determine. In case of felony, if they find against the defendant, judgment is given of respondeas ouster, and he is still at

liberty to plead the general issue. Trem. P. C. 302. But in cases of misdemeanours, the defendant cannot, of right, insist on any investigation of the merits, and sentence may immediately be given as if he had been found guilty, 8 East. 110, 1; though the extreme hardship which may result from this technical rule, will sometimes induce the court to allow a plea of not guilty, as a matter of indulgence, 6 East. 602. Ante 1 vol. 437, 8, 9.

said town of B. from time whereof, &c. hath been and is an ancient town or borough, and the burgesses and inhabitants of the said town or borough of B. by virtue of divers incorporations during all the time aforesaid, have been and are an ancient corporation and body corporate, which at the time of the granting of the letters patent hereinafter next mentioned, duly consisted of twelve governors or keepers of the said town and the burgesses and commonalty thereof, and before the surrender hereinafter mentioned, had been and at the time of such surrender remained incorporated, by the name of the mayor, governors, and burgesses of the town of B. in the county of York, to wit, at B. aforesaid; and the said C. D. further says, that Henry the fifth, late king of England, &c. by his letters patent, bearing date at Westminster the eighteenth of February, in the second year of his reign (and which said letters patent, sealed with the great seal of England, the said C. D. now brings here into court) did for himself and his heirs, amongst other things, grant to his beloved the twelve governors or keepers of the said town of B. the burgesses and commonalty of the same town and their successors, governors or keepers, burgesses, and commonalty of the town aforesaid for ever, that the keepers of the peace, and justices assigned or to be assigned for the hearing and determining of felonies, trespasses, and other misdemeanours, or the justices of labourers, servants, and artificers in the east riding of the county of York should not by any means interfere within the said town of B. or the precinct of the same town, or the liberties thereof or without, concerning any thing within the same town, the precincts or liberties thereof done or arising; and that the aforesaid governors or keepers of the same town and their successors for the time being, or four, three, or two of them, or discreet and sufficient persons of them, should for ever have full correction, punishment, power, and authority of taking cognizance, enquiring, of hearing and determining all manner of things and matters, as well concerning all manner of felonies, trespasses, misprisions, and extortions, as concerning all manner of other causes and complaints whatsoever, within the aforesaid town and the precincts and liberties thereof, in any manner happening or arising as fully and entirely* as the keepers of the peace, and the justices assigned or to be assigned for the hearing and determining of the felonies, and trespasses, and other misdemeanours, or the justices of labourers, servants, and artificers in the east riding aforesaid, without the town, precincts, and liberties aforesaid, then had or should hereafter in any manner have as by the

tent, an exclusive jurisdiction in the corporation of Beverley, to try all offences committed within that town.

(g)

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(g) This precedent is from 4 jurisdictions in general, see ante Wentw. 63. As to the pleas to 505, and 1 vol. 437, 8, 9.

said letters patent, reference being thereunto had more fully appears ; which said letters patent, after the granting thereof, to wit, on the nineteenth of February aforesaid, at the town of B. aforesaid, were duly accepted by the then twelve governors or keepers, burgesses, and commonalty of the same town ; and the said C. B. further says, that afterwards, to wit, on the eleventh of March, in the first year of the reign of James the second, late king of England, &c. the then mayor, governors, and burgesses of the town aforesaid, by writing under the common seal of the town aforesaid, granted to the said late king James, and into his hands in his court of chancery at Westminster aforesaid, in due manner delivered up and surrendered all and every the power, franchises, liberties, privileges, and authorities whatsoever and howsoever to them granted, and by the before named mayor, governors, and burgesses, or by any select number of them, exercised by virtue of any right, title, or interest in them vested by any letters patent, customs, or prescriptions, in, for, or concerning the electing, nominating, constituting, being, or appointing of any person or persons to or for the several and respective offices and places of mayor, governors, and recorder, common clerk, and capital burgesses, or to any person to a place or office concerning the government of the said town of B. or unto or for the exercise or execution of the same or any of them ; and the before named mayor, governors, and burgesses of the aforesaid town of B. by the same writing most humbly besought the late king James to accept their surrender aforesaid, and that he would vouchsafe to regrant to them the aforesaid mayor, governors, and burgesses of his ancient town of B. aforesaid, the nomination and election of the officers aforesaid, as also the liberties and privileges aforesaid, or so many of them, and in such manner, quantity, and quality as the said late king James might judge most conducing to the better government of the same town, and under such restrictions, reservations, and qualifications as it might please him to appoint, as by the said writing of the said inrollment remaining of record in the court of chancery of our lord the now king at Westminster aforesaid, reference being thereunto had more fully appears ; which said surrender the said king James afterwards, to wit, on the same day and year aforesaid, at B. aforesaid, accepted ; and the said C. D. further* says that the said late king James, by his letters patent, bearing date at Westminster, on the day and year last aforesaid, (and which said last-mentioned letters patent, sealed with the great seal of England, the said C. D. now brings here into court,) reciting, amongst other things, that the mayor, governors, and burgesses of the said borough, had by several different names had, used, and enjoyed, and then had used and enjoyed divers rights, jurisdictions,

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liberties, franchises, acquittances, and privileges, and many other customs, liberties, immunities, exemptions, and rights, as well by divers charters and letters patent of divers of the late king James's progenitors and ancestors, then late kings and queens of England, as by reason of divers prescriptions and customs had and used in the same town from time whereof, &c. and also reciting the surrender herein before mentioned, the said late king James, willing, amongst other things, that for ever thereafter there should be had one certain and undoubted method in the same town of and for the keeping of the king's peace, there did, by his said letters patent, amongst other things, for himself, his heirs and successors, will, ordain, constitute, grant, and declare, that the town of B. aforesaid might and should be and remain thereafter for ever a free town of itself, and that the burgesses and inhabitants of the town aforesaid thereafter for ever should be one body corporate and politic really and fully, the said late king James, for himself, his heirs and successors, did elect, make, ordain, constitute, and confirm by his said letters patent, and that by the same name they should have perpetual succession. And further the said late king James willed for himself, his heirs and successors, by his said letters patent granted and confirmed, that thereafter for ever there might and should be in the town aforesaid one mayor, twelve aldermen in number only, and thirteen capital burgesses, of the better and more honest burgesses and inhabitants of the town aforesaid, in manner in his said letters patent specified to be elected and constituted, and after thereby, among other things, constituting and nominating certain persons, in such letters patent respectively named, to the several offices of mayor, aldermen, and recorder, and prescribing their continuance in those respective offices and stations, and directing an oath of office to be taken by the mayor and alderman of the said town, and by and before whom the same should be administered; and also thereby appointing the times and modes of electing new mayors, aldermen, and recorders, in the several cases of death, removal, or expiration of offices, and the qualifications requisite for each of those offices; the said late king James willed and did for himself, his heirs and successors, ordain* and grant, by his said letters patent, that the said town of B., and the circuits, precincts, and jurisdictions thereof, should thereafter be, extend and reach, and they were thereby authorized and empowered to extend and reach, as well in length and breadth as in circuit and precinct, to such, the like, and such sort of bounds, marks, and limits, to which and such as the aforesaid town of B., and the circuits, precincts, and jurisdictions, had from time whereof, &c. or at any other time before the date of his said letters patent, been accustomed to extend and reach; and the said late

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king James, for the better keeping his peace within the town aforesaid, and for the rule and government of his people there being, and others thither resorting, did of his special grace, certain knowledge, and mere motion, grant to the aforesaid mayor, burgesses, and aldermen of the town aforesaid, and their successors, by the said letters patent, that the mayor and recorder of the town aforesaid for the time being, and during the time in which they should severally happen to be in their offices, and also all and singular the aldermen of the town aforesaid for the time being, during the time in which they should remain in the place or office of an alderman of the said town, might be justices, and every one of them might and should be a justice of him the said late king James, his heirs and successors, to keep and preserve, and cause to be kept and preserved, the peace of him the said late king James, his heirs and successors, within the town aforesaid, and the circuits, precincts, and limits of the same, and to keep and correct, or cause to be kept and corrected, the statutes concerning artificers and labourers, weights and measures, within the town aforesaid, and in the circuit and precincts thereof, and to do all other things which to justices assigned to preserve and keep the peace, or any of them appertained, or thereafter it should appertain to do; and that the mayor of the town aforesaid for the time being, and the recorder of the said town for the time being, and the aldermen of the said town for the time being, or any three or more of them, of whom the mayor or recorder the said late king James willed to be one, might have full power and authority to inquire after all felons, wheresoever taken, or to be taken, within the town aforesaid, or the liberties and precincts of the same, and also of all manner of felonies, trespasses, misprisions, and other misdemeanours, defaults, and articles whatsoever, within the town aforesaid, and the liberties and precincts thereof, done, moved, and committed, and to be done, moved, and committed, which before the keepers and justices of the peace of any county of his kingdom of England, by the laws and statutes of the same kingdom of England, ought to be or might be inquired* of, except nevertheless that the said mayor, recorder, and aldermen of the said town for the time being, or their successors, or any of them, might not thereafter in any manner proceed to the determination of any treason, murder, or felony, touching the loss of life, within the town aforesaid, and the liberties and precincts thereof, without the special mandate and commission of him the said late king James, his heirs and successors, but nevertheless they might, and were thereby authorized and empowered to inquire of, hear, finish, or determine all and singular other trespasses, offences, misdemeanours, defaults, and articles which to the office of justices of the peace of the town aforesaid, the liberties and precincts thereof, it apper-

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tained, to do as fully and absolutely, and in as ample a manner and form as any other justices of the peace of the said late king James, his heirs or successors, in any county of his kingdom of England, could or might in future be enabled to inquire of, hear, or determine, so that his justices of the peace, or of labourers and artificers, in the county of York, should not, nor should any of them thereafter, in any manner, by any means interfere concerning any felonies, things, causes, matters, defaults, and other articles whatsoever, belonging and appertaining to the office of a justice of the peace, or of artificers or labourers within the town of B., or the limits, circuits, or precincts thereof, from whatever cause arising or happening; and the said late king James willed nevertheless that the recorder of the town aforesaid for the time being, and all and singular the aldermen of the town aforesaid for the time being, as well then present as future, before they should be admitted to the execution of the office of a justice of the peace within the town aforesaid, should, and each and every of them should take a corporal oath, for the true and faithful execution of the office of a justice of the peace within the town aforesaid, and the liberties and privileges thereof, and also the oaths in that behalf by the laws and statutes of this kingdom of England provided and required to be taken by a justice of the peace before the mayor of the town aforesaid for the time being, and that every mayor of the town aforesaid thereafter to be, before he should be admitted to the execution of the office of a justice of the peace there, should take the corporal oath aforesaid before the last mayor, his predecessor, for the time being; wherefore, and for the better administering and taking of all and singular the oaths in his said letters patent before-mentioned and appointed to be taken, the said late king James willed, and by his letters patent did for himself, his heirs, and successors, grant full power and authority to the mayor of the town aforesaid for the time being, from time to time for ever, of exhibiting and administering to the recorder* and aldermen, and also full power and authority to the last mayor for the time being of exhibiting and administering to the mayor elect, and of taking such oath as aforesaid, and also the several and respective other oaths, by his said letters patent above mentioned and appointed to be taken, according to the true intent and meaning of his said letters patent, without any further or other warrant from him the late king James, his heirs or successors, in that behalf to be procured and obtained; and further, the said late king James, of his pure special grace, and of his certain knowledge and mere motion, willed, and did for himself, his heirs and successors, by his said letters patent, grant and confirm to the before-mentioned mayor, aldermen, and burgesses of the town aforesaid, and their successors, all and every the

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customs, liberties and privileges, franchises, immunities, acquittances, exemptions, and rights, to them or their predecessors, by any name whatsoever, granted by the charters and letters patent of him the said late king James, or any of his predecessors, and also all and every the same and such like lands, tenements, and hereditaments, customs, liberties, privileges, franchises, immunities, acquittances, exemptions, and rights, which to the men and burgesses of the town of B. aforesaid, or any or either of them, by any name or names whatsoever, or by whatever incorporation, or pretext of any incorporation, they then had or ought to have, by reason of any charters or letters patent by him the said late king James, or any of his progenitors, kings and queens of that his kingdom of England, in any manner theretofore made, granted, or confirmed, or by any other lawful means, right, custom, usage, prescription, or title, in no wise destroyed, changed, or altered, by his letters patent, as by the said last-mentioned letters patent, reference being thereunto had, will more fully appear; which said last-mentioned letters patent, after the granting thereof, to wit, on the twelfth day of March, in the first year of the reign of the said late king James, at, &c. were duly accepted by the then burgesses and inhabitants of the said town, who by means thereof became, and have ever since continued, and still are a body politic and corporate, in deed, fact, and name, by the name of the mayor, aldermen, and burgesses of the town of B., in the county aforesaid. And the said C. D. further says, that from the time of the granting of the said letters patent of the said late king Henry until the time of the surrender herein-before mentioned, there were certain officers of the town of B. who, by virtue of their several offices, and the several incorporations aforesaid were and acted as justices of the peace within the said town, and the precincts and liberties thereof, and*
 [* 514] who from time to time duly held general sessions, of the peace in and for the same, and that ever since the granting of the letters patent of the said late king James, until and at the time of the preferring the said indictment, and from thence hitherto, there have been and still are a mayor, recorder, and aldermen of the town aforesaid, elected and sworn according to the several ordinations and provisions in the said letters patent expressed, and who for the time being have by virtue thereof been and acted as justices assigned to keep the peace within the town, precincts, and liberties aforesaid, and that during all the time last aforesaid, general sessions of the peace have been duly held in the said town of B. four times in every year, before the mayor, recorder, and aldermen of the said town for the time being, three or more of them, of whom the mayor or recorder of the said town hath always been one, for the inquiring, hearing of, and determining all such felonies,

trespasses, and other misdemeanours committed within the said town, and the precincts and liberties thereof, as they were and are by the said letters patent authorized and empowered to inquire of, hear, and determine, and this, &c. wherefore he prays judgment of the said indictment, and that the same may be quashed, &c.

And the said James Templer, esquire, coroner and attorney of our said lord the present king, in the court of our said lord the king before the king himself, who prosecutes for our said lord the king in this behalf, for our said lord the king saith that by any thing in the said plea of the said C. D. above alledged, the said indictment ought not to be quashed, because, protesting that the said plea and the matters therein contained are not sufficient in law to quash the said indictment. Nevertheless, for a plea in this behalf, the said coroner and attorney of, &c. for, &c. saith, that true it is such respective letters patent under the great seal of England, were made by the said late king Henry the third, and the said late king James the second, respectively, and were accepted as in the said plea of the said Benjamin is in that behalf alledged, and that such surrender was also made as in the same plea is alledged. But the said coroner and attorney of, &c. for, &c. further says that the said offences in the said indictment specified, were, and each of them was committed in the East riding of the said county of York, within the jurisdiction of the said court of general quarter sessions, and out of the liberties and precincts of the aforesaid town of B. in the said county, to wit, at, &c. in the said indictment mentioned, without this, that the said* offences in the said indictment specified, or any of them were or was committed within the precincts or liberties of the town of B. aforesaid, as the said C. D. hath in his said plea in that behalf alledged, and this he is ready to verify, wherefore he prays judgment, and that the said C. D. may be convicted of the premises in the said indictment specified.

Replication to the above protesting the insufficiency; says that the offences were committed within the jurisdiction of the quarter sessions, and traverses there, being committed within the precincts of B. (g)

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And the said C. D. as before says, that the said several offences in the said indictment specified were, and each of them was, committed within the precincts and liberties of the town of B. aforesaid, as the said C. D. hath in his said plea in that behalf alledged, and of this he puts himself upon the country, &c. And the said James T. who prosecutes for our said lord the king in this behalf doth the like, &c. Therefore, &c.

Rejoinder, issue on traverse.

And the said C. D. by ———, his attorney, comes, and having heard the indictment aforesaid, says, that the said lord the king ought not to impeach him on occasion of the premises, because he says that the said assault, beating,

Plea to an indictment at the sessions of the peace, that the of-

fence was committed out of the jurisdiction. (h)

wounding, and ill-treating, were done out of the jurisdiction of the justices assigned to keep the peace, &c. to wit, at Lambeth, in the county of Surrey, aforesaid, without this, that the said assault, &c. were committed within the jurisdiction of the said justices assigned, &c. as by the indictment aforesaid is above supposed; and this he, the said C. D. is ready to verify; wherefore he prays judgment, and that he may be dismissed from the premises by the court here.

General demurrer to a plea to the jurisdiction made to an information by the attorney general in K. B.

And the said R. H. knight, who prosecutes for our said lord the king in this behalf, as to the plea of the said C. D. for our said lord the king, says that the plea of him, the said C. D. in form aforesaid above pleaded, and the matter in the plea aforesaid contained, are not sufficient in law to preclude the court here from its jurisdiction to hear and determine the offences, transgressions, and contempts in the information aforesaid mentioned, by the same information in form aforesaid laid to the charge of the said C. D. wherefore, for want of a sufficient plea in this behalf, he prays judgment, and that the said C. D. may answer our said lord the king here of and in the premises.

Joinder in demurrer, to a plea to the jurisdiction of the court. [* 516]

And the said C. D. as before says, that the plea aforesaid by him, the said C. D. above in form aforesaid, pleaded, and the matter* in the plea aforesaid contained, are good, and sufficient to preclude the court here from its jurisdiction to hear and determine the offences, transgressions, and contempts aforesaid in the information mentioned, by the same information in form aforesaid laid to his charge. Which said plea, and the matter therein contained, the said C. D. is ready to verify; wherefore for that the said attorney general of our lord the king, for the said lord the king, has not answered that plea, nor it in any manner denied, but altogether refuses to admit the verification thereof, he prays judgment, and that he, the said C. D. from the offences, transgressions, and contempts in the information aforesaid mentioned, and by the said information in form aforesaid laid to his charge by the court here, may be discharged, &c.

Continuance by curia advisari vult, and judgment on demurrer, to pleas to the jurisdiction that pleas are bad and respondeas ouster.

And because the court of our lord the king here is not yet advised of its judgment thereupon to be given, a day is thereupon given as well to the said Robert Heath knight, who prosecutes, &c. as to the said C. D. and E. F. in the state in which they now are, &c. until eight days of Saint Hilary, before our lord the king, wheresoever, &c. to hear their judgment thereupon, for that the court are not yet advised, &c. At which eight days of Saint Hilary before our

(h) Translated from Trem. P. C. 271. A quere is made of this plea in Tremaine, whether it is not bad as amounting to the general issue; but this doubt seems to be unfounded. See 1 Chitty on Pleading, 429, n. p.

lord the king at Westminster, come as well the said R. H. who prosecutes, &c. as the said C. D. and E. F. in their proper persons. And the said R. H. who prosecutes, &c. prays judgment for our said lord the king, and that the said C. D. and E. F. may answer our said lord the king here in court, and that each of them may answer of and in the premises, &c. upon which all and singular the premises being seen, read, and heard, for that it appears to the court here, that the several pleas aforesaid by the said C. D. and E. F. in form aforesaid above pleaded, and the matter in the several pleas aforesaid contained, are not sufficient in law to preclude the court here from its jurisdiction to here and determine the offences, transgressions, and contempts aforesaid, in the information aforesaid mentioned, and by the said information in form aforesaid, laid to the charge of the said C. D. and E. F. it is commanded to the said C. D. and E. F. that they answer and that each of them answer here in court to our said lord the king, of and in the premises in the information aforesaid above contained, &c.

DEMURRER* TO INDICTMENTS. (i)

[* 517]

General de-
murrer to an
indictment
in K. B. (k)

And now at this day, that is to say, on Friday next, after the octave of the Holy Trinity, in this same term, before our said present sovereign lord the king at W. cometh the said C. D. by I. O. his clerk in court, (l) and having heard this indictment read, says, that our said lord the king ought not any further to impeach him the said C. D. touching or concerning the premises whereof he the said C. D. is by this indictment accused, because he says that the said indictment and the matters therein contained, are not sufficient in law to compel him the said C. D. to answer thereto, and that no process upon the said indictment ought, by the law of the land, to be made against him the said C. D. and this he is ready to verify, wherefore he prays the judgment of the

(i) As to demurrers to indictments in general, see 1 vol. 439, to 444. The demurrer may be *ore tenus*, Fost. 105. In case of felony, the defendant may also plead over to the felony, or omit doing so until judgment is given against him on demurrer, 8 East, 112; 2 Hale, 257. It seems, that, after judgment against defendant in felony, he may do this, 1 Salk. 59; Cro. Eliz. 196: but in misdemeanours the judgment is final, and the court may immediately pass sentence on the

unsuccessful party, as if he had been convicted on the trial, 8 East. 112; though, as a matter of favour, he may yet be admitted to plead, 4 T. R. 459.

(k) From Hand's Prac. 382. See a precedent 10 Wentw. 475. The 27 Eliz. c. 5, which requires special causes of demurrer to be assigned, does not extend to criminal proceedings. But the cause is sometimes stated for the sake of convenience; vide post. 518.

(l) If in any other court, say, "by ——— his attorney."

court here, and that he may be dismissed and discharged of the said indictment.

General demurrer to an indictment for non repair of highway. (m)

And now, that is to say, on, &c. at, &c. come C. D. and E. F. two of the inhabitants of the said parish, in the name of all the inhabitants of the said parish, by G. H. their attorney, and having heard the said indictment, say, that our said lord the king will not and ought not further to impeach or trouble the said inhabitants of the said parish, on account of the premises aforesaid, because they say that the said indictment and the matters therein contained, are insufficient in law, and that they the said inhabitants of the said parish are not bound by the law of the land to answer thereto, whereupon for the insufficiency thereof they pray judgment, and that the said inhabitants of the said parish may be discharged by the court here of the premises aforesaid.

Common joinder in demurrer. (n)

[* 518]

And M. N. who prosecutes for our said lord the king on this occasion, for our said lord the king saith, that the said indictment and the matters therein contained, are good and sufficient in law to compel* the inhabitants of the said parish to answer to the same; which said indictment and the matters therein contained, the said M. N. who prosecutes for our said lord the king, is ready to verify, as the court, &c. and because the said inhabitants do not answer the said indictment, nor in anywise deny the same, the said M. N. who prosecutes for our said lord the king, for our said lord the king prays judgment, and that the said inhabitants may be convicted, &c.

Demurrer to several counts of an indictment for a forcible entry and confession as to the residue. (o)

And now at this day, that is to say, on ——— next, after, in this same term, before our lord the king, at Westminster, come the said A. B. &c. (the defendants) by T. S. their attorney, and having severally heard the said indictment, they say, that as to the first and second counts of the said indictment, they do not apprehend that our said lord the king will or ought further to impeach or trouble them the said (defendants,) upon account of the premises in those counts respectively mentioned, because they say that the said first and second counts of the said indictment and the matters therein contained, are insufficient in law, and that they the said (defendants) need not, nor are they bound by the law of the land to answer thereto, wherefore for the insufficiency thereof they severally pray judgment, and that they may be dismissed and discharged by the court here of the premises in the said first and second counts respectively mentioned, &c. and as to the third and last counts of the said indict-

(m) See a similar precedent, Starkie, 706.

(n) See a similar precedent, Starkie, 707.

(o) See a precedent nearly similar in K. B. Hand's Prac.

382.

ment, the said (defendants) severally say that they are guilty of the premises in those counts respectively mentioned, as in and by the said indictment is above supposed, and they put themselves, in respect thereof, on the mercy of our said lord the king, &c.

And G. H. who for our said lord the king in this behalf prosecuteth for our said lord the king saith, that the first and second counts of the said indictment, and the matters therein contained, are good and sufficient in law to compel them, the said [defendants] and each and every of them to answer to the said first, second, third, and fourth counts of the said indictment; wherefore, for want of a sufficient answer in this behalf he prays judgment, and that the said [defendants] and each and every of them may be convicted by the court here of the premises charged upon them in the said first and second counts of the said indictment.

And the said A. B. &c. cometh by C. D. his attorney, and having heard the indictment read saith, that our said lord the king ought* not further to impeach or molest him, the said A. B. on account of the premises, because he saith that the said indictment is insufficient in law to put him, the said A. B. to answer to the said indictment, and that by the law of the land no process ought to be made upon the said indictment against him, the said A. B. for that it doth not appear by the said indictment upon what certain day, or in what certain place, the offence aforesaid in the indictment aforesaid supposed to have been committed by the said A. B. was committed by the said A. B. as by the law of the land ought to appear; wherefore, for the insufficiency of the said indictment, he prays judgment, and that he may be discharged from the premises by the court here, &c.

Joinder in
demurrer to
the above.
(p)

Special de-
murrer to an
indictment
wanting an
allegation of
time and
place. (q)
[* 519]

(p) See similar forms, Hand's
Prac. 383. Stark. 707.

(q) See Trem. P. C. 270. Star-
kie, 706.

[* 520]

PLEAS* IN ABATEMENT, &c.

Plea of mis-
nomer of the
surname,
and addition.
(a)

[* 521]

The King
against
E. H. wife of J. H.
indicted by the name
of E. S. spinster. } And Elizabeth, (b) the wife of J. H.
(who is indicted by the name of E. S.
spinster) cometh in her proper person,
and having heard the said indictment,
she saith that at the time of taking
the said indictment, and long before, she the said E, was, and
yet is, the wife of the said J. H. and then and long before
was, and yet is called and known by the name of Elizabeth
H. wife of the said J. H. without this, that she the said
Elizabeth, at the said time of the taking of the said indict-
ment, or at any time* since, was Elizabeth S. spinster, or
then was, or at any time since hath been, or now is, called
or known by the name of Elizabeth S. and this she is ready
to verify; wherefore she prayeth the judgment of the court

(a) Other precedents of pleas of misnomer of the surname, Cro. C. C. 46. 10 East. 83. As to these pleas in general, ante 1 vol. 433 to 478. Formerly it was thought that a misnomer of the surname could not be pleaded in abatement, 2 Hale, 176. Hawk. b. 2. c. 25. s. 39; but this opinion is now exploded, 10 East. 83. As to the accuracy with which the defendant must be described, see 1 vol. 202 to 211; and as to pleas in abatement, id. 445 to 449. The plea may be put in by attorney, 10 East. 83. Hawk. b. 2. c. 34. s. 3. It must be pleaded before any plea in bar, as the defects thus taken advantage of are cured by pleading, 2 Hale, 175.

Fost. 16. It may be ore tenus at least in cases of felony or treason, 1 Leach, 476. Fost. 105. But it is more usually engrossed and signed by counsel, Cro. C. C. 21. The proper time for pleading it, is immediately on the arraignment, when it is delivered into court by the defendant or his attorney.

(b) The real name of the defendant must here be disclosed; and if the name be incorrect he can take no advantage of the mistake; for he is concluded by his own plea, 2 Hale, 238. 4 Bla. Com. 335. The plea ought not to commence, and *the said*, &c. see 5 T.R. 487. 3 Wils. 413. 3 Went. 210. 2 Chitty on Pleading 2nd Ed. 455, n. d. 464. n. e.

here, and that she may be dismissed and discharged of the said indictment. (c)

The king
against
E. C. indicted by the
name of S. C. } And Elizabeth C. who is indicted by the name of Sarah C. cometh here into court in her own proper person, and prayeth judgment of the said indictment, because she saith that she, the said Elizabeth C. from the time of her baptism (d) to this present time was, and still is called and known by the name of Elizabeth, and by the said Christian name is, and during the whole time aforesaid was called, named, and known, without this, that she, the said Elizabeth, now is, or at any time heretofore to this day, was called, named, or known by the name of Sarah, as is supposed by the indictment aforesaid; and this she, the said Elizabeth, is ready to verify; for which reason, and because she, the said Elizabeth, is not named in the said indictment by the name of Elizabeth C. she, the said Elizabeth C. prayeth judgment of the said indictment, and that the same may be quashed. Plea, misnomer of the christian name.

And J. G. who in and by the said indictment is called by the name and addition of J. G. late of the parish of Kensington, in the county of Middlesex, butcher, in his own person cometh, and having* heard the indictment read, he saith that at the time of taking the said indictment, and long before he, the said J. G. was and ever since hath been, and still is inhabiting, resident, and commorant in the parish of Saint James, Westminster, in the county of Middlesex Entry of plea of wrong addition of place of abode. (e) [* 522]

(c) The plea ought to have a proper conclusion, praying judgment of or on the indictment; and usually concludes with a prayer, that the indictment be quashed; but a conclusion, "that he may not be compelled to answer the same," has been holden correct, 10 East. 83. It is said, that in case of felony, the plea ought to answer over to the merits; but this is not requisite, as the judgment on the plea being determined against the defendant, is "respondeas ouster." In misdemeanours, it is certainly improper for reasons already shewn. 8 East. 107. Cro. Eliz. 495. If the plea of misnomer in case of misdemeanour be found for the defendant, the judgment in K. B. will be entered as follows;—"whereupon all and

singular the premises being seen and fully understood by the court of our said lord the king now here, and mature deliberation had thereupon, it is considered and adjudged by the said court here, that he the said C. D. be not compelled to answer the said indictment, but that he depart hence without day in this behalf." 10 East. 88.

(d) It should seem with analogy to the practice in civil cases, that it is not necessary to alledge that the defendant was baptized by the particular name. See 2 Chitty on Pleading, 2nd Ed. 464. n. g. Rep. T. Hardw. 286. 6 Mod. 116.

(e) See similar precedents, 3 Burr. 1517. Stark. 704. 2 Rich. C. P. 157. See ante 1 vol. 435 to 478.

aforesaid, without this, that he, the said J. G. now is, or at the taking of the said indictment, or at any time before, was inhabiting, resident, or commorant at the parish of Kensington, in the county of Middlesex, as by the said indictment is supposed; and this he is ready to verify, for which reason, and because he, the said J. G. is not called in the said indictment, J. G. late of the parish of Saint James, Westminster, he the said J. G. prays judgment of the said indictment, and that the same be quashed.

The like in
another
form. (f)

And now, to wit, on Wednesday next, after fifteen days of Easter, in this same term, in the court of our said lord the king, before the king himself here, to wit, at Westminster, in the county of Middlesex, P. P. of the parish of Saint Martin in the fields, in the said county, refiner, who by virtue of the writ of our said lord the king, is had here to answer our said lord the king of the premises contained in the indictment aforesaid, and thereby above alledged against him the said P. P. in his proper person, and having heard the said indictment read, he the said P. P. saith, that he ought not to be compelled to give any answer thereto, because protesting that the said indictment is insufficient in law for plea in this behalf, he the said P. P. saith that he the said P. P. before, and at the taking of the inquisition aforesaid, and of finding the said indictment against him the said P. P. was, and from thence hitherto hath been, and still is conversant in the said parish of Saint Martin in the fields, in the said county of Middlesex, and he, the said P. P. at the time of the taking the said inquisition, and the finding the said indictment against him, the said P. P. or at any time before or afterwards hitherto, was not, nor was, nor hath he been conversant in the parish of St. Margaret, Westminster, in the said county of Middlesex, as by the said indictment is above supposed, and this he, the said P. P. is ready to verify; wherefore, inasmuch as in the said indictment addition is not made of the place of the which he, the said P. P. at the time of the taking the said inquisition, and of finding the said indictment was, and still is, and in which he then was, and still is conversant, according to the form of the statute, of additions in indictments in which the exigent may be awarded, he the said P. P.* prays judgment of the said indictment, and that the same may be quashed, &c.

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Plea in
abatement
that defen-
dant is an
earl, and not
described as
such. (g)

And immediately being asked how he would acquit him-

(f) From 1 Wentw. 36. See ante 1 vol. 433, to 478.

(g) This plea is translated from Trem. P. C. 12. When a peer is indicted for an offence by reason of which process of outlawry lies against him, and

he may be tried by his peers, he must set forth his title in his manner, in order to claim his privilege, because the plea is to be determined by the record, 6 Co. 53, b. 2 Hale, 240. See ante 1 vol. 433 to 478.

self of the premises above laid to his charge, he says, that he is the person in the indictment aforesaid mentioned, and described by the name of C. K. in the parish of Saint Giles in the Fields, in the county of Middlesex, esquire, and against whom the indictment aforesaid is preferred, for the murder and felony aforesaid, [*or as the case may be*] and says, that he ought not to be compelled to answer the said indictment, because he says that the lord Charles the first, late king of England, &c. by his letters patent under the great seal of England, bearing date at Canterbury the 18th day of August, in the second year of his reign (which said letters patent sealed with the great seal aforesaid, the said Charles earl Banbury now brings here into court) of his special favour and certain knowledge, and mere motion, constituted, raised and created William then viscount Wallingford to the state, degree, dignity, and honour of earl Banbury; and by the same letters patent gave and bestowed upon him the said William the name, state, style, dignity, title, and honour of earl Banbury; and by the same letters patent, invested, ennobled, and adorned him the said William with and by the same name, state, title, style, honour and dignity by girding him with the sword, cape, and placing upon him the golden ring to have and to hold the same name, state, degree, dignity, style, title, and honour of earl Banbury, with all and singular the pre-eminences, honours, &c. to the name, state, degree, dignity, style, title, and honour of earl Banbury appertaining or belonging to the said William and the heirs male of his body issuing for ever, willing and granting by the same letters patent for himself, his heirs and successors, that the said William and his heirs male aforesaid, the name, state, degree, title, and honour aforesaid, should successively have and wear, and any one of them should have and wear, and by the name of earl Banbury should successively be called, as by the same letters patent more fully appears, by virtue of which letters patent the aforesaid William was created earl Banbury, and became and was seised of the state, degree, title, and honour of earl Banbury in his demesne as of fee tail, to wit, to himself and the heirs male of his body* issuing, and being so seised thereof as aforesaid, the said William earl Banbury died so thereof seised, to wit, at the parish of St. Giles in the Fields aforesaid, in the county of Middlesex aforesaid; after whose death, the state, degree, title, and honour of earl Banbury aforesaid descended to Edward Knollis, as son and heir male of the body of the aforesaid William, earl Banbury, by means whereof the said Edward became earl Banbury, and was seised of the estate, degree, title, and honour of earl Banbury aforesaid in his demesne as of fee tail, to wit, to himself and the heirs male of the body of the aforesaid William issuing, to wit, at, &c. and being so thereof

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seised, the said Edward earl Banbury, died thereof seised without heir male of his body issuing, to wit, at, &c. after whose death the estate, degree, title, and honour of earl Banbury aforesaid descended to Nicholas Knollis as heir male of the body of the said William earl Banbury, to wit, brother and heir of the aforesaid Edward, son and heir of the aforesaid William, by means whereof the said Nicholas became and was earl Banbury, and seised of the state, degree, and honour of earl Banbury aforesaid, in his demesne as of fee tail, to wit, to himself and the heirs male of the body of the said William then late earl Banbury, to wit, at, &c. aforesaid; and being so thereof seised, the said Nicholas earl Banbury died so thereof seised, to wit, at, &c. aforesaid, after whose death the state, degree and honour of earl Banbury aforesaid descended to the said Charles as heir male of the body of the said William late earl Banbury issuing, to wit, son and heir of the aforesaid Nicholas late earl Banbury, brother and heir of the said Edward, son and heir of the said William, whereby at the time of the caption of the said indictment, the said Charles was and still is seised of and in the state, degree, and honour of earl Banbury in his demesne as of fee tail, to wit, to himself and the heirs male of the body of the aforesaid William issuing, and still is earl Banbury, to wit, &c. aforesaid; and this he is ready to verify, wherefore because he is not named in the indictment aforesaid by the said name of earl Banbury, he prays judgment of the indictment aforesaid, and if he ought to be compelled further to answer that indictment.

Plea that the defendant is not described with any addition of degree or mystery. (h) And A. B. comes in his proper person, and having heard the said indictment read, says, that he at the time of the taking of the said indictment, and long before, was and yet is a yeoman; and that the said indictment does not contain an addition of the said* estate of the said A. B. nor of any estate, degree, or mystery of the said A. B. and this he is ready to verify; wherefore, for want of the addition of the estate, degree, or mystery of the said A. B. in the said indictment, he prays judgment of the said indictment, and that the same may be quashed.

Entry of plea in abatement for want of addition of degree to an indictment, removed into B. R. (i) And now at this day, that is to say, on Wednesday next after the obtave of St. Hilary in this same term, in the court of our said lord the king, before the king himself here, to wit, at Westminster, in the county of Middlesex, H. H. of W. in the county palatine of Durham, gentleman, who by virtue of the writ of our said lord the king, is had here to answer our said lord the king of the premises contained in the indictment aforesaid, above alledged against him, the

(h) See a similar precedent, Starkie, 705. See ante 1 vol. 483 to 478.

(i) See a similar precedent. Cro. C. C. 393. See ante 1 vol. 483 to 478.

said H. H. comes in his proper person, and having heard the said indictment read, saith, that he ought not to be compelled to give any answer thereto, because protesting that the said indictment is insufficient in law; nevertheless, for plea in this behalf the said H. H. saith, that the said indictment doth not contain any addition of the estate, degree, or mystery of the said H. H. in the said indictment named; and this the said H. H. is ready to verify; wherefore he prays judgment, and that the said indictment may be quashed, &c.

And C. D. comes and defends the force and injury, when, &c. and all the felony and whatsoever, &c. because he says, that he the said C. D. is by that writ appealed by the name of C. D. late of the parish of Saint James, Westminster, in the county of Middlesex, gentleman, whereas in truth and in fact there is a certain parish in the county of Middlesex called and known by the name of the parish of Saint James within the liberty of Westminster; but that there is not within the said county of Middlesex, neither was there on the day of obtaining the said original writ of appeal, neither hath there since been any parish, town, or place known and called by the name of the parish of Saint James, Westminster, as the said A. B. by his writ aforesaid, above supposes; and this he the said C. D. is ready to verify; wherefore he prays judgment of the said writ, and that the same may be quashed, &c.

Plea in abatement of a writ of appeal, that there is no such parish as the one named in it. (k)

And sir James Burrow, knight, coroner and attorney of our sovereign lord the king, in the court of our said lord the king, before the king himself, for our said lord the king saith, that by reason* of any thing by the said H. F. &c. above, in pleading alledged the said indictment ought not to be quashed, because he says that the said plea and the matters therein contained are not sufficient in law to quash the said indictment, to which said plea, in manner as the same is above pleaded, our said lord the king is not under any necessity nor obliged by the law of the land in any manner to answer, and this he the said coroner and attorney of our said lord the king, for our said lord the king, is ready to verify; wherefore, for want of a sufficient plea in this behalf, our said lord the king prays judgment, and that the said Henry Finch, &c. may be convicted of the premises in the said indictment mentioned.

Demurrer to plea in abatement to indictment. (l) [* 526]

And the said H. F. &c. say, that the said plea, and the matters therein contained, are sufficient in law to quash the the said indictment, which said plea, and the matters therein contained, they the said H. F. &c. are ready to verify and prove in such manner as the court here shall direct; wherefore, in as much as the said coroner and attorney of our said

Joinder in demurrer. (m)

(k) 2 Starkie, 705. Ante 1 439, &c.
vol. 433 to 478.

(m) 1 Went. 24. Ante 1 vol.

(l) 1 Went. 24. Ante 1 vol. 440.

lord the king, for our said lord the king, hath not yet answered the said plea, nor in any wise denied the same, the said H. F. &c. pray judgment of the said indictment, and that the said indictment be quashed, &c.

Replication
to a plea in
abatement.
(n)

And J. S. knight, attorney-general of our lord the king and lady the queen, who for the said lord the king and lady the queen, prosecutes in this behalf, protesting that he doth not know that any thing in the plea of the said Charles is true; says that the said C. K. in the indictment aforesaid mentioned ought to answer that indictment, because he says that, &c. [*here set forth the matter of the replication*], and this he is ready to verify; wherefore he prays judgment, and that the indictment aforesaid may be adjudged good, and that the said C. K. may further answer to that indictment, &c.

Demurrer to
a replication
to a plea in
abatement.
(o)

And the said Charles, in his own person, comes and says, that the said replication of the said attorney-general of our said lord the king and lady the queen, in form aforesaid above pleaded and the matters therein contained, are not sufficient in law to compel the said Charles further to answer the said indictment. Wherefore for want of a sufficient replication to the aforesaid plea of the said Charles in that behalf pleaded, the said Charles as before prays judgment of that indictment, and that from that indictment* he may be here, by the court, exonerated and discharged, &c.

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Joinder in
demurrer to
a replication
to a plea in
abatement.
(p)

And the said J. S. knight, attorney-general of the lord the king and lady the queen, who for the said lord the king and lady the queen prosecutes in this behalf, says that the aforesaid replication of the attorney-general of our lord the king and lady the queen in form aforesaid above pleaded and the matters therein contained are good and sufficient in law to compel the said Charles further to answer the said indictment. Which said replication above pleaded, and the matters therein contained, the said attorney-general of the said lord the king and lady the queen, for the said lord the king and lady the queen is now ready to verify as the court here shall direct and award, &c.

Judgment
for defendant
upon plea
and abate-
ment. (q)

Whereupon all and singular the premises being seen and fully understood by the court of our said lord the king now here, and mature deliberation had thereupon, it is considered and adjudged by the said court here, that he the said Samuel Shakespeare be not compelled to answer the said indictment, but that he depart hence without day in this behalf.

(n) This was the replication to the Earl of Banbury's plea of nobility ante 523. It was holden insufficient on demurrer, and the defendant was never tried. The substance therefore is not given. Trem. P. C. 13. Ante 1 vol. 449,

450.

(o) From Trem. P. C. 14. Ante 1 vol. 453 to 478.

(p) From Trem. P. C. 14. Ante 1 vol. 433 to 478.

(q) See 10 East. 88.

PLEAS* IN BAR TO THE INDICTMENT AUTRE [* 528]
FOIS ACQUIT.

AND the said J. V. and J. A. protesting that they were not guilty of the premises charged in the said indictment (b) demand judgment of the said indictment and all and every part thereof, they having heretofore by a jury of the country in due form of law been acquitted and discharged of the premises in the said indictment above specified and charged on them, and for plea to the said indictment says, that our said lord the king ought not further to prosecute them by reason of the premises in the said indictment mentioned, because they say, that heretofore, to wit, at this now present delivery of the king's gaol of Newgate, now holding for the county of Middlesex at justice hall in the Old Bailey, in the suburbs of the city of London, they the said J. V. and J. A. stood indicted by the names and description of J. V. late of, &c. and J. A. late of, &c. for that, &c. [*Here set forth the indictment verbatim.*] As by the said indictment now here remaining affiled of record in the said court of the delivery of the said gaol of our said lord the king at Newgate more fully and at large appears, on which said indictment they the said J. V. and J. A. afterwards, to wit, at the same session of gaol delivery now* holding for the county of Middlesex as aforesaid, in due

Plea of autre
fois acquit to
an indict-
ment of bur-
glary. (a)

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(a) As to pleas of autre fois acquit, in general, see 1 vol. 452 to 461. The above, which was the plea in Vandercomb and Abbott's case, 2 Leach, 712, was holden bad on demurrer; not on the ground that the form was defective; but that the acquittal was not for the same offence. See

Crim. Law.

1 vol. 456. See a plea of autre fois acquit. Rast. Ent. 385, a. 4. Burn, J. indictment, XI. which appear to be defective.

(b) This is necessary, 2 Leach, 712, n. a. 2 Hale, 255. Though the jury cannot be charged to try the merits till the plea in bar is decided, 1 Leach, 435.

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form of law were tried, and by a jury of the country then and there in due form of law chosen, tried, and sworn to speak the truth of and concerning the premises in the said indictment last above mentioned, specified then and there in due form of law, were acquitted and found not guilty of the premises in the said last mentioned indictment specified and charged on them as they the said J. V. and J. A. in their plea to the said last mentioned indictment in that behalf have alledged, whereupon it was considered and adjudged by the said last mentioned court there, that they the said J. V. and J. A. of the premises in the said last mentioned indictment specified, should be discharged and go acquitted thereof, and the said J. V. and J. A. further say, that they the said J. V. and J. A. now here pleading, and the said J. V. and J. A., in the indictment aforesaid named and thereof acquitted as aforesaid, are the same identical persons and not other or different persons, and that the said burglary in the said dwelling-house of the said M. N. and A. N. in the indictment aforesaid above pleaded, specified, and supposed to be done and committed by them the said J. V. and J. A. is the same identical and individual burglary as in the said indictment to which they the said J. V. and J. A. are now here pleading is supposed and alledged to have been done and committed by them the said J. V. and J. A., and not other or different, to wit, at, &c. aforesaid, and this they are ready to verify, &c. Wherefore they pray judgment of the court here whether our said lord the king will or ought further to prosecute, impeach, or charge them on account of the premises in the said indictment to which they the said J. V. and J. A. are now here pleading, contained, and specified, and whether they ought further to answer thereunto, and that they may be dismissed this court without delay.

Newman Knowlys.

J. W. Knapp.

Demurrer to
the above
plea of autre
fois acquit.
(c)

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And T. S., esquire, who prosecutes for our said lord the king, in this behalf cometh and saith, that for and notwithstanding any thing in the said plea of the said J. A. and J. V. by them above pleaded, our said lord the king ought further to prosecute them the said J. A. and J. V. by reason of the premises in the said indictment to which the said plea is above pleaded mentioned, because he saith, that the said plea and the matters therein* contained are not sufficient in law to bar our said lord the king from further prosecuting them the said J. A. and J. V. by reason of the premises in the said indictment to which the said plea is above pleaded mentioned. And this the said T. S. is ready to verify; wherefore he prays judgment that our said lord the king

may further prosecute them the said J. A. and J. V. by reason of the premises in the said indictment to which the said plea is above pleaded mentioned, and that the said J. A. and J. V. may answer over to the same indictment.

And the said J. V. and J. A. being now here as aforesaid Joinder in in their proper persons, under the custody of the said sheriff demurrer. of the county of Middlesex say, that the said plea of them ^(d) the said J. V. and J. A. in form aforesaid above pleaded, and the matters therein contained, are sufficient in law to bar our said lord the king from further prosecuting them the said J. V. and J. A. by reason of the premises in the said indictment to which the said plea is above pleaded mentioned, and this they are ready to verify, &c. Wherefore as before they pray judgment, and that our said lord the king may be barred from further prosecuting by reason of the premises mentioned in the said indictment, to which the said plea of them the said J. V. and J. A. is above pleaded, and that they may be dismissed this court without delay, &c.

And now here, at the general session of oyer and terminer of our lord the king, holden in and for the county of Middlesex, at the session house for the said county, on Saturday, the 16th day of May, in the 47th year of, &c. comes the said G. W. the defendant, in his own proper person, and having heard the said indictment read, the said defendant protesting that he is not guilty of the premises charged in the said indictment, demands judgment of the said indictment, and all and every part thereof, he having heretofore by a jury of the country in due form of law been acquitted and discharged of the premises in the said indictment above specified and charged on him, and for plea to the said indictment the said defendant says, that our said lord the king ought not further to prosecute him by reason of the premises in the said indictment mentioned, because he says, that heretofore, to wit, at the general session of oyer and terminer of our said lord the king, holden in and for the county of Middlesex, at the session house for the said county, on Monday, the 16th day of September, in the 45th year of * the reign of our said lord the king, he the said defendant stood indicted by the name and addition of George Wintle, late of the parish of St. Andrew, Holborn, in the county of Middlesex, labourer, for that heretofore, to wit, on, &c. [*here set forth the indictment.*] And against the peace of our said lord the king, his crown and dignity, as by the said indictment now here remaining, affiled of record in the court of the general session of oyer and terminer of our said lord the king, holden in and for the said county of Middlesex,

Plea of autre fois acquit to an indictment for perjury, tried at Clerkenwell.

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(d) Ante 1 vol. 452. 461.

eminent crown lawyer; see ante,

(e) This was settled by a very 1 vol. 452 to 461.

at the session house for the said county, more fully and at large appears. On which said indictment afterwards, to wit, at the general session of oyer and terminer of our said lord the king, holden in and for the said county of Middlesex, at the session house for the said county, on Monday, the 30th day of June, in the 46th year of the reign of our said lord the king, the said defendant in due form of law was tried by a jury of the said county, then and there in due form of law chosen and sworn to speak the truth of and concerning the premises in the said indictment last above mentioned, and then and there in due form of law was acquitted, and found not guilty of the premises in the last mentioned indictment, specified and charged on him as the said defendant for himself, by his plea to the last mentioned indictment alledged, upon which it was considered by the last mentioned court there that the said defendant of the premises aforesaid in the last mentioned indictment specified, should be discharged and go without day. And the said defendant further says, that he the said defendant now here pleading, and the said defendant named in the indictment in this plea mentioned, and thereof acquitted as aforesaid, is the same identical person, and not other or different persons; and that the said commission of bankrupt specified in the indictment in this plea mentioned, and therein alledged to have been awarded and issued on the 20th day of August in the 40th year of the reign of our said lord the king, is the same identical commission as is mentioned in the indictment to which the said defendant is now here pleading, and is therein alledged to have been awarded and issued on the 29th day of July, in the 40th year of the reign of our said lord the king, and not other or different. And that the said prosecutor, named in the said indictment in this plea mentioned, is the same identical prosecutor as is named in the indictment to which the said defendant is now here pleading; and that the said certificate specified in the said indictment in this plea mentioned, is the same identical certificate as is specified in the indictment to which the said defendant is now here pleading. And that the said Nicholas Smith,* esquire, one of the masters of the high court of chancery, named in the indictment in this plea mentioned, and the said Nicholas Smith, esquire, one of the masters of the said high court of chancery named in the indictment to which the said defendant is now here pleading, is the same identical Nicholas Smith, and not other or different. And that the said oath specified in the indictment in this plea mentioned, and supposed to be taken by the said defendant, is the same identical and individual oath as in the indictment to which the said defendant is now here pleading is supposed and alledged to have been taken by the said defendant, and not other or different; and that the said affidavit in writing specified in the said indict-

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ment in this plea mentioned, and therein supposed to be deposed, sworn, and made by the said defendant, is the same identical and individual affidavit in writing as in the said indictment to which the said defendant is now here pleading is supposed and alledged to have been said, deposed, sworn, and made by the said defendant; and that the said wilful and corrupt perjury mentioned in the indictment in this plea mentioned, and therein supposed to be committed by the said defendant, is the same identical and individual wilful and corrupt perjury as in the said indictment to which the said defendant is now here pleading, is supposed and alledged to have been committed by the said defendant, and not other or different, (to wit,) at the parish of St. Andrew, Holborn, aforesaid, in the county aforesaid; and this he is ready to verify, &c. Wherefore the said defendant prays judgment of the court here whether our said lord the king will or ought further to prosecute, impeach, or charge him the said defendant on account of the premises in the said indictment to which the said defendant is now here pleading contained and specified; and whether he ought further to answer thereto; and that he may be dismissed this court without delay.

And Henry Collingwood Selby, clerk of the peace of the said county of Middlesex, who prosecuteth for our lord the king in this behalf, cometh and saith that for and notwithstanding any thing in the said plea of the said George Wintle, by him above pleaded, our said lord the king ought further to prosecute him the said George Wintle, by reason of the premises in the said indictment to which the said plea is above pleaded mentioned, because he saith that the said plea, and the matters therein contained are not sufficient in law to bar our said lord the king from further prosecuting him the said George Wintle, by reason of the premises in the said indictment to which the said plea is above pleaded* [* 533] mentioned; and this the said Henry Collingwood Selby is ready to verify. Wherefore, for want of a sufficient plea in this behalf, our said lord the king prays judgment, and that the said George Wintle may be convicted of the premises in the said indictment mentioned.

To which demurrer the defendant hath joined, [*as ante* Joinder in demurrer. 530.]

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PLEAS* IN BAR TO INDICTMENT.

AUTRE FOIS CONVICT.

Plea to an
appeal of
murder, au-
tre fois con-
vict of man-
slaughter,
and admis-
sion to his
clergy. (f)

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BECAUSE he says that otherwise, to wit, at the general gaol delivery of our lord the king of his county of Cumberland, holden for the county of Cumberland aforesaid, at the city of Carlisle, in the said county, on, &c. before E. W. knight, chief baron of the exchequer of our said lord the king, and J. T. knight, one of the justices of our said lord the king, assigned to hold pleas before the king himself, justices assigned to deliver the gaol of our said lord the king of those being in the said prison upon the oath of J. B. &c. (and twenty-one others) good and lawful men of the county aforesaid, sworn to inquire and present for our said lord the king, and the body of the said county, it was presented that T. L. late of, &c. gentleman, not having the fear of God before his eyes, but being moved and seduced, &c. (*setting out the indictment*) against the peace of our said lord the king his crown and dignity. And that the said T. L. being then and there brought to the bar before the said justices by J. P. esquire, then sheriff of the county aforesaid, to whose custody he had been before committed, in his own proper person comes, and then and there being immediately asked how he would acquit himself of the premises by the said indictment above alleged against him, then said that he was not guilty thereof, and thereof for good and ill then put himself upon the country, and the jury sworn thereupon by the said sheriff in that* behalf, then and there returned and impannelled, to wit, J. B. gent. &c. being called on came, who being then

(f) See a similar precedent, Starkie, 707. A conviction of manslaughter is more beneficial than an acquittal in this respect, that it is a good bar to any subsequent appeal, 2 Leon. 160, 1. 3

Inst. 131, 4 Co. 45, 6. As to the plea of autre fois convict in general, see 1 vol. 462, 3. The requisites of the plea are nearly the same with those of a previous acquittal.

taking trial and sworn upon their oath said, that the said T. L. was not guilty of the murder aforesaid, in the indictment aforesaid above specified, in manner and form as he the said T. L. had in his plea above alledged, nor had he ever fled ; but the jurors aforesaid, upon their oath aforesaid, then and there did say, that the said T. L. was guilty of the felony and manslaughter only, to wit, of the felonious killing of the said R. A. and that the said T. L. had no goods or chattels, lands, or tenements, at the time of the committing of the said felony or manslaughter, or ever afterwards, to the knowledge of the said jurors. As by the record thereof in full force and effect still being, (which record our lord the king for certain reasons hath caused to come into his court here, before the king himself, by his writ of certiorari, which now remains filed of record in the said court of our said lord the king before the king himself, amongst the indictments of the term of Saint Hilary, in the ——— year of the reign of our said lord the king) amongst other things fully appears ; and the said T. L. further saith that no judgment of and concerning the premises in the said indictment alledged against him, was pronounced at the said general gaol delivery ; but the said T. L. further saith that he the said T. L. then was, and yet is, a clerk, and then and there, at the said general gaol delivery of the county of Cumberland aforesaid, before the justices assigned to deliver the said gaol, demanded that the benefit of clergy should be allowed him for the manslaughter aforesaid, whereof he was then convicted by a jury of the country as aforesaid, and offered himself, and was ready to read as a clerk, if the court would admit him to the book for that purpose ; and the said T. L. further saith, that afterwards, to wit, on Monday next, after the morrow of the Purification of the blessed Virgin, in the term of Saint Hilary, in the eighth year of the reign of our said lord the now king, in the said court of our said lord the king here before the king himself, came the said T. L. in his own proper person in the custody of the marshal of the marshalsea of our lord the now king, in the court of our lord the now king, before the king himself, into whose custody the said T. L. before, to wit, on, &c. being brought here to the bar by virtue of a writ of our said lord the king of habeas corpus ad subjiciendum, &c. directed to the sheriff of the said county of Cumberland, was then and there by the said court committed, and is committed to the custody of the said marshal, and immediately by the said court here being asked if he had any thing to say for himself why the said court of our said lord the king, before the king himself, should not proceed to* judgment and execution against the said T. L. of and concerning the aforesaid conviction of manslaughter in the said record for the death of the said R. A. which said re-

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cord our said lord the king had for certain reasons caused to be removed by his writ of certiorari into the said court of our said lord the king, before the king himself, as aforesaid, and which did then, and still does remain in the said court of our said lord the king, before the king himself; and the said T. L. then and there said, that he was a clerk, and then and there prayed the benefit of clergy to be allowed him; and thereupon the book being then and there delivered by the said court to the said T. L. the said T. L. did then and there read as a clerk; and it was then and there considered by the said court that the said T. L. should be burnt upon his left hand; and the said T. L. was then and there burnt on his left hand. As by the record thereof in the said court of our said lord the king before the king himself, fully appears. And this he the said T. L. is ready to verify; wherefore he prays judgment if the said J. A. ought to have or maintain his said appeal against him the said T. L. concerning the death aforesaid, &c. With this, that he the said T. L. is willing to verify that he the said T. L. now appealed and the said T. L. in the said indictment above named, and in form aforesaid convicted and burnt in the hand, are one and the same person, and not another or different persons, and that the wound of which the said R. A. is supposed in the said appeal to have died, and the said wound of which the said R. A. is supposed in the said indictment to have died, are one and the same wound, and not other and different wounds, and he prays allowance of the premises. And as to the felony and murder aforesaid the said T. L. saith that he is not guilty thereof, and thereof for good and ill he puts himself upon the country, &c. and the said J. A. doth the like, &c.

Plea to an indictment for that the defendants were convicted and fined at the quarter sessions for part of the same offence charged in the indictment to which they plead; and as to the residue of the offence, not guilty. (g)

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And the said L. R. and J. C. by F. B. their attorney, came here into court, and having had oyer of the said indictment as to the said L. R. and J. C. with force and arms unlawfully and injuriously erecting and building, and causing to be erected and built across the said ancient footway in the said indictment specified, the said wall in the said indictment also specified, and the said wall so as therein mentioned erected and built, with force and arms unlawfully and injuriously upholding, maintaining, and continuing from the said eighteenth day of April, in the twenty-fourth year aforesaid, until the twenty-third day of April in that year, part of the said offence charged in and by the said* indictment say, that our said lord the king ought not further to impeach or molest them for the same, because they say that heretofore, to wit, at the general quarter sessions of

(g) See a similar precedent, pleas in general see ante 412 Cro. C. C. 388, and as to these to 461.

the peace of our said lord the king holden in and for the borough of Richmond, in the said county of York, by adjournment on Tuesday, the twenty-third day of April, in the twenty-fourth year of the reign, &c. at the common hall of and within the said borough of R. before T. B. esquire, then mayor of the said borough of Richmond, W. S. esquire, recorder of the same borough, and C. B. esq. then justices of our said lord the king assigned, &c. upon the oaths of A. B. C. D. &c. [names of the jurors] good and lawful men of the borough aforesaid, in the county aforesaid, then and there sworn and charged to enquire for our said lord the king, and the body of the said borough, it was presented, that from time whereof, &c. (here set out the indictment for erecting a wall in a public way as ante, 3 vol.)

And the said L. R. and J. C. further say that such proceedings were thereupon had that afterwards, to wit, at the general quarter sessions of the peace of our said lord the king, holden by adjournment at the common hall aforesaid, in and for the said borough before E. F. esq. W. S. esq. &c. A. B. esq. &c. [the names of all the justices] justices of our said lord the king assigned, &c. they the said L. R. and J. C. of that offence were, and each of them was convicted in due form of law, and they the said L. R. and J. C. were thereupon then and there, in and by the court of the said last mentioned session so holden as aforesaid fined for the said trespass and offence the sum of twelve pence each, to be paid to our said lord the king, as by the record thereof remaining affiled in the said court within the said borough more fully appears. And the said L. R. and J. C. further say, that part of the said offence in the said indictment, to which the said L. R. and J. C. now here plead specified as to the said L. R. and J. C. with force and arms unlawfully and injuriously erecting and building and causing to be erected and built across the said ancient footway in the said last mentioned indictment specified, the said wall in that indictment also specified, and the said wall so as therein mentioned erected and built with force and arms unlawfully and injuriously upholding, maintaining, and continuing from the said eighteenth day of April, in the twenty-fourth year aforesaid, until the twenty-third day of April, in that year, and the offence in the said herein recited indictment, and of which they the said L. R. and J. C. were and are so convicted as aforesaid, are one and the same offence, and not other or different, and this they are ready to verify; wherefore they pray judgment, and that as to that part of* the offence in the said indictment to which they now plead, specified as to the said L. R. and J. C. with force and arms unlawfully and injuriously erecting and building, and causing to be erected and built across the said ancient footway in the said last mentioned indictment specified, the said wall in that indictment also specified, and the said wall so as

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therein mentioned erected and built, with force and arms unlawfully and injuriously upholding, maintaining, and continuing from the said eighteenth day of April, in the twenty-fourth year aforesaid, until the twenty-third day of April in that year, they may be discharged and dismissed by the court here of and from the same, and as to the residue of the offence in the said indictment to which the said L. R. and J. C. now here plead specified, they say that they are not guilty thereof, and of this they put themselves upon the country, &c.

Replication
that there is
no such re-
cord of con-
viction. (h)

[* 539]

And James Burrow, esquire, coroner and attorney of our said lord the king in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, having heard the said plea of the said L. R. and J. C. by them above pleaded, as to the said L. R. and J. C. with force and arms, unlawfully and injuriously erecting and building, and causing to be erected and built, across the said ancient footway in the said indictment now exhibited and produced in court here specified, the said wall in the said last mentioned indictment also specified, and the said wall so as therein mentioned erected and built, with force and arms unlawfully and injuriously upholding, maintaining, and continuing from the said eighteenth of April, in the twenty-fourth year aforesaid, until the twenty-third day of April, in that year, part of the said offence above charged in and by the said indictment now exhibited and produced in court here, and committed by the said L. R. and J. C. as aforesaid, says that our said lord the king ought not, by reason of any thing in the same plea in that behalf alledged, to be barred or hindered from having his aforesaid indictment maintained against them, for that part of their aforesaid offence, because the said coroner and attorney for our said lord the king says that there is no such record of the supposed conviction aforesaid in the said court of general quarter sessions of the peace of our said lord the king holden in and for the said borough of R. in the said county of York, as the said L. R. and J. C. have above in pleading in that behalf alledged; and this the said coroner and attorney of our said lord the king, who prosecutes as aforesaid, is ready to verify; wherefore* he prays judgment for our said lord the king, and that the said L. R. and J. C. may be convicted of that part of their offence aforesaid to which they have above pleaded the said supposed conviction, and that they may be compelled to abate the said nuisance, &c.; and as to the said plea of the said L. R. and J. C. by them above pleaded, as to the residue of the offence aforesaid, in the said indictment, to which the said L. R. and J. C. now here plead,

(h) See a similar precedent, Cro. C. C. 8th Ed. 390.

specified, and in which the said L. R. and J. C. have above put themselves upon the country, the said coroner and attorney of our said lord the king, who prosecutes as aforesaid for our said lord the king, doth so likewise. Therefore, &c.

PLEAS* TO MERITS.

[* 540]

And being immediately asked how he will acquit himself of the "premises" (in case of felony, or of "the treasons," in case of treason) above laid to his charge, saith that he is not guilty thereof, and thereof for good and for ill he puts himself upon the country, &c. Entry of Plea of not guilty, in case of treason or felony. (i)

A. B. } And the said A. B. by ———, his attorney
ats. } comes, and having heard the said indictment
The King. } read to him, says that he is not guilty of the
premises in the said indictment specified above laid to his charge, and of this he the said A. B. puts himself upon the country. Plea to an indictment for not repairing an highway or bridge, or for any other misdemeanour. (k)

In the king's bench.

Easter term, 53 Geo. III.

Breeds and Carpenter, } And the said T. J. B. and W. C.
ats. } appear here in court by ———, Plea of general issue to an information ex-officio in K. B. (l)
The King. } their attorney, and pray oyer of

the said information, and it is read to them; which being by them heard and fully understood, they complain to have been grievously vexed and molested, under colour of the premises, and this the less justly, because protesting that the said information and the matters therein contained

(i) See a similar form, Starkie, 704, and as to the law, ante 1 vol. 470.

(k) See a similar form, Starkie, 720. See ante, 1 vol. 470.

(l) See ante 1 vol. 470.

are insufficient in law, whereto they have no need, nor are they bound by the law of the land to answer; for plea nevertheless the said T. J. and W. say that they are not guilty of the said supposed offences in the said information mentioned, and thereby alledged to have been committed by them the said T. J. and W., nor of either of them, and of this they the said T. J. and W. put themselves upon the country, &c.

[* 541]
Plea of general issue by two inhabitants of a parish on behalf of the whole when indicted for not repairing. (m)

The township of Frankwell } And J. W. and T. B., two
ats. } of the inhabitants of the said
The King. } township of Frankwell, in the
said county of Salop,* by G. H., their attorney, come here into court, and having heard the said indictment read to them on behalf of themselves and the rest of the inhabitants of the said township of F., say that they are not guilty of the premises in the said indictment mentioned and laid to their charge in manner and form as in and by the said indictment is above alledged, and of this the said J. W. and T. B., on behalf of themselves and the rest of the inhabitants of the said township of Frankwell, put themselves upon the country, &c.

Plea by a township, to indictment for not repairing an highway, confession as to part, and not guilty as to the rest. (n)

And A. B. and C. D. &c. [*as in the last precedent,*] say that as to so much of the said highway in the said indictment mentioned, and therein supposed to be ruinous, miry, deep, broken, and in decay, as lies betwixt the said place in the said indictment mentioned called B. G. and a certain place at the township of L. aforesaid called S., containing in length five hundred yards, they cannot deny that they are guilty of the premises in that behalf above laid to their charge, in manner and form as by the said indictment is above supposed and alledged, and as to the rest of the premises by the said indictment above laid to their charge, they say for themselves and the rest of the inhabitants of the township of L. aforesaid, that they are not guilty thereof in manner and form as in and by the said indictment is above supposed, and of this they put themselves upon the country, &c.

(m) See ante 1 vol. 470.

Starkie, 718, and a form ante

(n) See a similar precedent, 536, and see ante 1 vol. 470.

SPECIAL* PLEAS—HIGHWAYS.

[* 542]

The inhabitants of the parish of H. H. } And A. B. and Plea to a
 ats. } C. D., two of the presentment
 The King. } inhabitants of the against a pa-
 said parish of H. H., in the said county of D., by J. K. repairing
 their attorney, come here into court, and having heard the highway,
 said presentment read to them, on behalf of themselves that two
 and the rest of the inhabitants of the said parish of H. townships
 H., except the inhabitants respectively of the township of repair, two
 R. and the township of S., in the said parish of H. H., in different
 the said county, say that they do not apprehend that our parts of the
 said lord the king will or ought further to impeach them way, and the
 or either of them, except the inhabitants of the said town- general issue
 ships of R. and S., because,* as to the said part of the said residue. (a)
 supposed king's highway beginning at 180 yards northward [* 543]

(a) With respect to special pleas to indictments in general, see 1 vol. 472, 478, and pleas in indictments respecting the non-repair of highways in particular, id. and ante, 3 vol. 572, 3. There it will be found that where the liability to repair exists of common right, the burden cannot be thrown on any other party, except by a special plea; but in all cases where the defendants are not prima facie liable, and even where they are, and the defence is either that the road lies out of the parish, is not public, or is in good repair, the only proper plea is the general issue. It seems to be a good general rule on this

subject, that whatever the prosecutor will be compelled to prove in order to make out the charge, as in all these instances, may be negatived by the defendant without specially pleading, 2 Saund. 158, n. 10. The above plea was framed to enable the defendants to shew that part of the way indicted did not lie within the parish indicted; and that particular townships were bound to repair the residue. The *first* of these grounds of defence clearly amounts to the general issue; because it is essentially necessary for the prosecutor to shew in support of the indictment, that the way is within the district he

from the said bridge called D. L. bridge, and so continuing towards the said town of C. for the length of one hundred and thirty-two yards, and containing one hundred and thirty-two yards in length, and ten yards in breadth, and so supposed to be ruinous, miry, deep, broken, and in decay, they say that they are not guilty of the premises in the said indictment mentioned and laid to their charge in manner and form as in and by the said indictment is above alledged, and of this the said A. B. and C. D., on behalf of themselves and the rest of the inhabitants of the said parish of H. H., except as aforesaid, put themselves upon the country, &c. and as to the residue of the premises in the said indictment mentioned, they say that the said parish of H. H. is, and from time whereof the memory of man is not to the contrary, hath been divided into several townships, and whereof the township of R. aforesaid and the township of S. aforesaid are parts and parcels, and that the inhabitants of that part or division of the said parish of H. H. called by the name of the township of R. from time immemorial before the said time in the said indictment mentioned, have repaired and amended, and have been used and accustomed to repair and amend, and of right ought to have repaired and amended, and still of right ought to repair and amend the said part in the said highway beginning at a brook called S. brook, and so continuing towards the said town of C. for the length of one hundred and ninety-eight yards, and containing one hundred and ninety-eight yards in length and ten yards in breadth, the same part of the said highway lying and being within the said township of R. aforesaid. And that the inhabitants of that part or division of the said parish of H. H. called by the name of the township of S. from time immemorial before the said time in the said indictment mentioned, have repaired and amended, and have been used and accustomed to repair and amend, and of right ought to have repaired and amended, and still of right ought to repair and amend the said part of the said highway in the said indictment secondly above mentioned, beginning twenty-two yards southward from the sixth mile-stone, leading from M. to C., and so continuing towards the said town of C. for the length of three hundred and seventy-four yards, and containing three hundred and seventy-four yards in length and ten yards in breadth, the said part of the said highway lying and being within the said township of S. aforesaid (b). And

has thought proper to prosecute. The *second* is as clearly the object of a special plea, since the presumption of law is that the parish is liable to repair, and it is not for the crown to establish,

but for the defendant to repel it. On these principles the general issue is pleaded to part and the special matter to the residue.

(b) In every special plea it must be shewn on whom the ob-

this the said* A. B. and C. C., for themselves and the rest of [* 544] the inhabitants of the said parish of H. H., except as aforesaid, are ready to verify; wherefore they pray judgment if our lord the king will or ought further to impeach them of and concerning the premises in the said indictment mentioned, and that the said A. B. and C. D., and the rest of the inhabitants of the said parish of H. H., except as aforesaid, may be dismissed and discharged by the court here of and from the premises in the said indictment mentioned.

Of Michaelmas term, 56 Geo. III. Plea to presentment by justice that another parish is bound to repair.
 The King } And now at this day (that is to say) on, &c. come J. G. and C. C., two of the inhabitants of the parish of St. Giles, in the county of Cambridge, in the name of all the inhabitants of the said parish of St. Giles, by William Samuel Jones, their clerk in court, and having heard the said presentment read, as well for themselves as for the rest of the inhabitants of the said parish of St. Giles, say, that our said lord the king will not nor ought any further to impeach, prosecute, or disturb the said inhabitants of the said parish of St. Giles on occasion of the premises, because they say that the inhabitants of the parish of Great St. Mary, in the town of Cambridge, and county aforesaid, from time whereof the memory of man is not to the contrary, until the passing of the act of parliament herein after mentioned, have repaired and have been used and accustomed to repair, and during all that time of right ought to have repaired, and but for the passing the said act of parliament and the provision therein made and hereinafter mentioned respecting the repairs of the said part of the said king's common highway in the said presentment mentioned to be ruinous, deep, broken, and in great decay as aforesaid, from the passing of the said act of parliament hitherto of right ought to have repaired and

ligation of repairing lies, and the ground of liability, as prescription, custom, &c. 1 Sid. 140. Carth, 213. 2 Saund. 159. n. 10. And even where the matter of defence might have been given in evidence under the general issue, if the defendant will plead specially that he is not liable, he must proceed to set forth on whom the legal responsibility rests, 2 Saund. 159, n. 10. Here many of the precedents traverse the obligation of the parish to repair, as post 544, 547, n. f;

which traverse relating to a mere matter of law is demurrable, and, therefore, is here omitted, 1 Saund. 23, n. 5. 2 Saund. 159, n. 10. and see 2 Hen. Bla. 182, 4 T. R. 437. It seems, however, proper, where the obligation, not being of common right, is specially set forth in the indictment, 2 Saund. 159, n. 10.

(c) As to these pleas in general, ante 1 vol. 472 to 478, and 3 vol. 572, and see last precedent.

[* 545]

Traverse of
liability of
parish. (d)

Plea that the
parish con-
sists of seve-
ral town-
ships, each
of which is
bound by
custom to re-
pair its own
roads. (e)

still of right ought to repair the said part of the said king's common highway when and as often as it hath been or may be necessary.* And the said J. C. and C. C. further say, that by a certain act of parliament made and passed in the thirty-seventh year of the reign of our sovereign lord the now king, entitled "An act," &c. [*here set out the title of the act*], it was amongst other things enacted, that the said part of the said road in the said act of parliament mentioned which lies between the said house at the time of making the said act of parliament, or lately, called the Watering Pot, and the said corner of the yard belonging to the said S. P. B. being the said part of the said highway in the said presentment mentioned to be ruinous, deep, broken, and in great decay, should from and after the passing of the said act of parliament be repaired by trustees therein mentioned, and that the said inhabitants of the said parish of Great Saint Mary should be exempted from repairing the same in consideration of the sum of 150*l.* agreed to be contributed by them towards the expence of making and repairing the said road; (c) and the said J. G. and C. C. further say, that in and by the said act of parliament it was further declared that the said act and all the powers thereby given should commence and take effect on the day the same should receive the royal assent, and should be put in execution and continue in force from thenceforth for and during the term of twenty-one years next ensuing, and from thence to the end of the then next session of parliament. And the said J. G. and C. C. further say, that the said act of parliament at the time of making the said presentment was and still is in full force and effect, and in no wise repealed. Without this, that the inhabitants of the said parish of St. Giles, in the said town of Cambridge, in the county aforesaid, the said part of the common highway so as aforesaid ruinous, deep, broken, and in great decay, ought to repair and amend when and so often as it should be necessary as by the said presentment is above supposed. And this the said J. G. and C. C. as well for themselves as for the rest of the inhabitants of the said parish of St. Giles, are ready to verify. Wherefore they pray judgment, &c. [*Conclusion as ante 543.*]

And A. B. and C. D. two inhabitants of the parish of B.

(c) Quære if it ought not to be thus, that the money was contributed.

(d) As to this traverse, ante 542, n. b.

(e) See a similar precedent, Starkie, 716, where the parish indicted consists of several districts, each of which is bound to

repair the road lying within it, care must be taken to plead the custom or prescription, for if judgment be given after verdict of guilty, it will be conclusive evidence that the whole parish is liable to repair, Peake. Rep. 219, unless fraud be shewn, or that the district in which the road

by M. N.* their attorney, for themselves and the rest of the inhabitants of the said parish, except the inhabitants of the townships of C. and H. hereinafter mentioned, come, and having heard the said indictment read, say, they do not intend that our said lord the king ought further to proceed against the said inhabitants of B. aforesaid, except as aforesaid, by reason of the premises in the said indictment specified, because they say, that the said parish of B. now is, and at the time of the taking of the said inquisition was, and from time whereof the memory of man is not to the contrary, hitherto hath been, divided into divers, to wit, seven districts and different townships, that is to say, one township there called C. and one other township there called H. and that within the said parish there now is, and at the time of taking the said inquisition there was, and during all the time aforesaid there hath been, a certain ancient and laudable custom there during all the time aforesaid used and approved of, that is to say, that the inhabitants of each of the said several townships from time whereof the memory of man is not to the contrary, have repaired, maintained, and amended, and have used and been accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired, maintained, and amended, and still of right ought to repair, maintain, and amend all and every the king's common highways lying and being within their own respective townships that would be otherwise repairable by the inhabitants of the said parish of B. at large, when and as often as necessary; and that the inhabitants of the said parish at large have not during all or any part of the time aforesaid repaired, maintained, or amended, and have not been used or accustomed to repair, maintain, or amend, and of right ought not to repair, maintain, or amend the king's common highways within the said parish, or any of them, or any part thereof. And the said A. B. and C. D. further say, that so much of the said common king's highway in the said indictment mentioned and therein alledged to be ruinous and in decay, as beginning at M. in the parish aforesaid, extends from thence eastward for the length of — yards, now is and during all the time aforesaid hath been situate and lying within the said township called C. and during all that time was and is one of the king's highways in that township, that, but for the said custom, would be repairable by the inhabitants of the said parish at large, and that the same part of the said highway, during all the time aforesaid, of right has been repairable, and during all that time ought to have been

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lay defended without the privity of the parish, Dougl. 421, and see ante 1 vol. 472. The mode of pleading is to state the liability of each district as above, see 2 Saund. 159, a. n. 10.

[* 547]

repaired, maintained, and amended, and still of right ought to be repaired, maintained, and amended by virtue of the said custom by the inhabitants* of the said township called C. when and as often as necessary, and not by the inhabitants of the said parish of B. at large; and that the residue of the said highway, in the said indictment mentioned and therein alledged to be ruinous and in decay, now is, and during all the time aforesaid, has been situate and lying within the township called H. and during all that time was and is one of the king's common highways in that township, that, but for the said custom, would be repairable by the inhabitants of the said parish at large, and that the same part of the said highway, during all the time aforesaid if right hath been repairable, and during all that time ought to have been repaired, maintained, and amended, and still of right ought to be repaired, maintained, and amended, by virtue of the said custom, by the inhabitants of the said township of H. when and as often as necessary, and not by the inhabitants of the said parish at large. And this the said A. B. and C. D. are ready to verify, wherefore they pray judgment, &c. [conclusion as ante 543.]

Plea to a presentment that the inhabitants of two divisions of a parish ought to repair the road presented. (e)

And now at this day come here into court J. F. and T. W. two of the inhabitants of the said parish of H. by J. D. their attorney, and having heard the said presentment read, say, that the said inhabitants of the said parish of H. (except the inhabitants respectively of the villages and towns of C. and F.) ought not to be charged in manner aforesaid with the repairs of the said part of the said highway in the said presentment mentioned, and thereby alledged to be found very ruinous, miry, deep, broken, and in decay, for want of due reparation and amendment of the same, because they say, that the said parish of H. is, and from time whereof, &c. hath been, divided into several townships, villages, quarters, or divisions, commonly called or known by the several names of the H. quarter, C. quarter, F. quarter, T. quarter, and G. quarter, and that the inhabitants of that part or division of the said parish, called by the name of C. quarter, from time immemorial, before the said time in the said presentment mentioned, have been used and accustomed and of right ought to repair, and still of right ought to repair as much of the said highway as lies within the said quarter or division called C. quarter, to wit, from a certain place called T. to a certain place called B. in the said parish; and that the inhabitants of that part of the said parish called F. quarter, from time immemorial before the said time in the said presentment mentioned, have been used and accustomed, and of right ought to repair, and still of right ought to repair, so much of the said highway as lies within the said last mentioned

(e) See a precedent nearly as to these pleas in general, ante similar, Cro. C. C. 392, and see 1 vol. 472, and 3 vol. 572.

quarter or* division, to wit, the residue of the said highway [* 548] from the said place called B. to a certain other place within the said parish called F. when and so often as there hath been or may be occasion for repairing the same parts of the said highway respectively; (f) and this the said J. F. and T. W. are ready to verify, wherefore they pray judgment, and that the inhabitants of the said parish of H. (except the inhabitants respectively of the said townships or villages of the said parish, called C. quarter and F. quarter) by the court here may be dismissed and discharged from the said presentment as to the said highway so alledged by them to be in decay and out of repair, &c.

And R. T. and T. S. two of the inhabitants of the said Plea that the parish of C. for themselves, and the rest of the inhabitants of highway specified in the said parish (except the inhabitants of the liberty of the borough of C. the liberty of the priory, the tything of C. the tything of H. and the tything of A. in the said parish), lies within several districts, and that the inhabitants of those parts of the parish ought respectively to amend the part of the road lying within their own boundaries. (g) in their proper persons come, and having heard the said indictment read, say, that they do not apprehend that our said lord the king will or ought further to impeach them, or any, or either of them (except the inhabitants of the liberty of the borough of C. aforesaid, &c.) because they say that the said highway, in the said indictment mentioned, and therein alledged to be ruinous, in decay, and out of repair is, and at the said several times when, &c. was, and from time whereof, &c. hath been situate, lying, and being partly within the said liberty of the borough of C. aforesaid, other part thereof and the residue thereof within the tything of A. aforesaid, within the said parish, that is to say, at, &c. aforesaid; and that the inhabitants of the liberty of the borough of, &c. aforesaid, the liberty of the priory aforesaid, &c. respectively, from time whereof, &c. have repaired and amended, and have used and been accustomed to repair and amend, and still of right ought respectively to repair and amend the said king's highway in the said* indictment mentioned and alleged to be ruinous, in decay, and out of repair, in manner following, that is to [* 549]

(f) In the precedent in the Crown Circuit Companion 392, a traverse is here inserted of the liability of the parish to repair; it is omitted in the above precedent for reasons already given, see ante 543, n. b. The form of the traverse which many of the precedents contain is as follows: "without this that the parish of H. aforesaid, in the county of C. aforesaid, the common highway aforesaid, so as aforesaid being in decay, from time whereof, &c. have

been used and accustomed to repair and amend and of right ought to have repaired and amended, and still ought to repair and amend, when and so often as it should or may be necessary, in manner and form as in and by the said presentment [or indictment as the case may be] is supposed."

(g) See a similar precedent, 6 Wentw. 394, and as to these pleas see ante 1 vol. 472 to 478. 3 vol. 572.

say, the inhabitants of the borough of C. aforesaid, so much thereof as lies within the said borough, the inhabitants of the liberty of the priory aforesaid, so much thereof as lies within the said liberty, &c. (so on with the others,) to wit, at, &c. aforesaid, and this the said R. T. and T. S. for themselves, and the rest of the inhabitants of the said parish of C. (except the inhabitants of the liberty of the borough of C. &c.) are ready to verify; wherefore they pray judgment if our said lord the king will or ought further to impeach them of and concerning the premises in the said indictment mentioned, and that the said R. T. and T. S. and the rest of the inhabitants of the said parish of C. (except, &c.) may be dismissed and discharged by the court here of and from the premises in the said indictment mentioned.

Plea to a presentment that a particular liberty within the parish ought to repair, and not the parish at large.
(h)

And A. B. and C. D. &c. of the parish of S. M. [*as ante* 547] that within the parish of S. M. aforesaid there now is and from time whereof, &c. there hath been a certain liberty or district called G. H. wherein there now are and immemorially have been divers inhabitants, and that the said part of the said highway in the said presentment above specified and thereby supposed to be out of repair, now lies, and during all the time aforesaid hath lain, within the said liberty or district, to wit, at, &c. aforesaid. And the said A. B. and C. D. further say, that the inhabitants of the said liberty or district from time whereof, &c. have repaired and amended, and have been used and accustomed to repair and amend, and still of right ought to repair and amend, all the common highways within the said liberty or district as often as occasion requires, by reason whereof the inhabitants of the said liberty or district ought to have repaired and amended the part of the said highway in the said presentment specified and thereby supposed to be out of repair, and this the said A. B. and C. D. are ready to verify and prove as the court shall direct, wherefore they pray judgment, &c. [*as ante* 543.]

Replication traversing the custom alleged in the plea that particular divisions of a parish ought to repair. (i)
[* 550]

And M. N. esquire, coroner and attorney of our said sovereign lord the king, in the court of our said lord the king, before the king himself, who prosecutes for our said lord the king in this behalf, saith, that by reason of any thing by the said A. B. and C. D. above in pleading alledged, our said lord the king ought not to be* precluded from maintaining his said indictment against the inhabitants of the said parish of, &c. because he saith as before that the inhabitants of the said parish of, &c. in the said county of, &c. the said part of the said common king's highway so being in decay

(h) See a similar precedent, Starkie, 718, and vide ante 1 vol. 472 to 478. and 3 vol. 572. (i) See a similar precedent, Starkie, 725, and see 1 vol. 472 to 478. and 3 vol. 572.

as aforesaid, ought to repair and amend when and often as occasion may require, and that within the said parish there is not now, nor from time whereof the memory of man is not to the contrary, hath there been such ancient and laudable custom there during all the time aforesaid, used and approved of with respect to the repairing of all and every the king's common highways within the said parish that would, but for the said supposed custom, be repairable by the inhabitants of the said parish of, &c. at large, as by the said A. B. and C. D. is above in pleading alledged; and this the said attorney-general, who prosecutes as aforesaid for our said lord the king, prays may be enquired of by the country, &c.

And A. B. and C. D. two of the inhabitants of the said parish of M. for themselves and the rest of the inhabitants of the said parish of M. except E. F., G. H. and K. L. come, and having heard the said indictment read, say, that as to certain part of the said highway in the said indictment specified and therein mentioned to be ruinous and in decay, beginning at A. and extending from thence to B. in the said indictment mentioned and therein alledged to be ruinous and in decay as aforesaid, they are not guilty of the premises in the said indictment specified above laid to their charge, as by the said indictment is above supposed, and of this they put themselves upon the country, &c. and as to the residue of the same highway they say, that they do not intend that our said lord the king will further proceed against the said inhabitants of the said hamlet of M. or any of them, except the said E. F., G. H. and K. L. by reason of the premises in the said indictment specified, because they say, that the said residue of the said highway in the said indictment mentioned and therein alledged to be ruinous, miry, deep, broken, and in decay, adjoins and from time whereof the memory of man is not to the contrary, hath adjoined to certain lands in the parish of M. aforesaid, now and at the time of the taking of the said indictment in the several occupations of the said E. F., G. H. and K. L. and that the said residue of the said highway in the said indictment mentioned and therein alledged to be ruinous, deep, miry, broken, and in decay as aforesaid, from time whereof the memory of man is* not to the contrary until the inclosure thereof hereinafter mentioned, was a certain common king's highway upon and leading over a certain piece of open and uninclosed ground called ———, of which the said several lands in the several occupations of the said E. F., G. H. and K. L. were parcel and not separated or divided from the same by any fence or

Plea by two of the inhabitants of a parish that they are not guilty as to part, and as to the rest, that it ought to be repaired by particular individuals, by reason of the inclosure of certain lands. (k)

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(k) See a similar precedent, pleas ante 1 vol. 472 to 478, 3 Starkie, 710. See as to these vol. 572.

inclosure. And that afterwards, to wit, on, &c. the same residue of the same highway was inclosed on both sides thereof by certain fences there erected and made in and upon the said respective lands now in the occupation of the said E. F., G. H. and K. L. and continually from that time hitherto hath continued and still continues so inclosed as aforesaid, and at the time of taking the said indictment and continually from thenceforth hitherto hath been and still is continued so inclosed by the said E. F., G. H. and K. L. respectively by and with the respective fences of their said respective lands. And that the said E. F., G. H. and K. L. respectively, by reason of their said continuance of the said inclosure of the said residue of the said highway so being ruinous and in decay as aforesaid, ought to have repaired and amended and still ought to repair and amend the said residue of the same highway so long as they have continued and shall continue the said inclosure in manner following, that is to say, the said E. F. ought to repair and amend so much of the said residue of the said highway throughout the whole breadth thereof as hath been so continued inclosed by him on both sides thereof as aforesaid, and so much thereof as hath been so continued and inclosed by him on one side thereof only, the said E. F. ought to repair the same highway on that side thereof as far as the middle of the same highway, and that the said G. H. and K. L. respectively ought in like manner to repair the respective parts of the said residue of the said highway adjoining to the said respective inclosures so continued by them respectively as aforesaid throughout the whole breadth thereof where the same is so inclosed by them respectively on both sides thereof, and where the same is so inclosed by either of them on one side thereof only, then the said G. H. and K. L. respectively ought to repair the same respective parts so inclosed by either of them on one side on such respective side only as far as the middle of the same highway so long as their said respective inclosures shall be continued by them respectively as aforesaid, and this the above mentioned A. B. and C. D. for themselves and the rest of the inhabitants of the said parish of M. (except as aforesaid) are ready to verify, wherefore they pray judgment of the court here, and that they may be dismissed and discharged of the premises of the said indictment above specified.

[* 552] And* hereupon A. B. and C. D. two of the inhabitants of the parish of B. by ——— their attorney come, and having heard the said indictment read, say that they do not intend that our said lord the king will further proceed against the inhabitants of the said parish of L. upon the said indictment, by reason of the premises in the indictment aforesaid above specified, because they say that the said parts of the said common highway so being in decay, as in the said indict-

Plea by a parish that the road in question is a new road, made by virtue of an act of parliament, alleging a

ment is specified, during all the time aforesaid, and also at custom for the time of passing a certain act of parliament, made and particular passed in the 47th year of the reign of our said lord the king, and of part-
entitled,—“An act to continue, &c.” (setting out the title of cular dis-
the act) were and from thence hitherto hath been, and still tricts in one
are, parts of the diverted or new line of road in the said act, of those
made and passed in the 47th year aforesaid mentioned, and townships to
that the said parish of B. now is, and at the time of taking repair their
the said inquisition was and from time whereof the memory own high-
of man is not to the contrary, hath been divided into divers, ways, and
to wit, seven districts, and different townships, to wit, E. F. alledging,
G. H. &c. And that within the said township of H. there that the
now are, and from time whereof the memory of man is not other high-
to the contrary, there have been divers, to wit, three distinct ways in that
and different districts, to wit, one district there called M. township
one other district there called N. and one other district there were repair-
called O.; and that, within the said township of H. but not able by par-
within the said several districts thereof, there now are, and ticular in-
from time whereof the memory of man is not to the con- dividuals
trary, there have been certain lands and tenements respec- ratione tenu-
tively called P. Q., R. S., &c. And the said A. B. and C. rz, and that
D. further say, that within the said parish there now is, and the high-
from time whereof the memory of man is not to the con- ways in ques-
trary, there have been certain lands and tenements respec- tion were so
tively called P. Q., R. S., &c. And the said A. B. and C. repairable,
D. further say, that within the said parish there now is, and no determi-
from time whereof the memory of man is not to the contrary, nation as to
there hath been a certain ancient and laudable custom there the repairs
during all the time aforesaid used and approved of with re- having been
spect to repairing of all and every the king's common high- made in
ways within the said parish, that would but for the said pursuance of
custom be repairable by the inhabitants of the said parish the recited
of B. at large, that is to say, that the same respectively act. (1)
should be, and the same respectively have, during all the
time aforesaid, been and during all the time aforesaid of
right ought to have been, and still of right ought to be
repaired and amended by the inhabitants of the respec-
tive townships, within which the same respectively lie,
or of some district thereof, within which the same re-
spectively lie, and not by the inhabitants of the parish at
large; and that the said inhabitants of each respective
township* should be, and they have, during all the time
aforesaid, been and of right ought to have been and still of
right ought to be exempted and discharged from the repairs
of the said king's common highway, lying and being within
the said parish out of their own respective townships. And
the said A. B. and C. D. further say, that all and every the
common king's highways, lying and being within the said
township of H. that would otherwise, and but for the custom
aforesaid, have been repaired by the inhabitants of the said
parish at large, have, from time whereof the memory of man

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(1) See a similar precedent, pleas in general see ante 1 vol. Starkie, 513; and as to these 472 to 478, and ante 3 vol. 572.

is not to the contrary, until the making of the said diverted or new line of road been repaired and amended, and have been used and accustomed to be repaired and amended, and from that time hitherto, except so far as the liability to repair the same is altered by the effect and operation of the said respective acts of parliament, of right ought to have been, and still of right ought to be repaired and amended in manner following, that is to say, the same common king's highways, lying within each of the said districts by the inhabitants of each respective district, repairing and amending the same common king's highways, lying within their own respective districts; and the said A. B. and C. D. further say, that all and every the common king's highways, lying and being within each of the same respective lands and tenements respectively called P. Q. R. &c. have, from time whereof the memory of man is not to the contrary, until the making of the said diverted or new line of road, been repaired and amended, and have been used and accustomed to be repaired and amended, and from that time hitherto, except so far as the liability to repair the same is altered by the effect and operation of the said respective acts of parliament, of right ought to have been, and still of right ought to be repaired and amended by the respective occupiers of those respective lands and tenements by reason of the tenure of the said respective lands and tenements in manner following, that is to say, the same common king's highway, lying within the said lands and tenements called P. by the occupiers of those lands and tenements, and the same common king's highway lying within the lands and tenements respectively called Q. and R. or either of them by the several and respective occupiers of those respective lands and tenements jointly. And the said A. B. and C. D. further say, that before and until the making of the said diverted or new line of road, part of the said old road from R. to B. in the said act mentioned, to wit, of the length, &c. and of the breadth, &c. did lie within the said township of H. and out of the said districts, and within the lands and tenements called P. and which, during all the time the said indictment mentioned, was and still is in the occupation of S. T. and one U. W. and* also one other part of the same road, to wit, of the length, &c. and of the breadth, &c. did lie within the said township of H. and out of the said districts, and within the said lands and tenements called Q. and which, during all the time in the said indictment mentioned, was and still is in the occupation of one M. A. and that the said part of the said common king's highway in the said indictment first mentioned, did, during all the time last aforesaid, lie and still does lie within the lands and tenements called R. and within the said township of H. and that the said part of the said common king's highway in the said indictment

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secondly mentioned, did, during all the time last aforesaid, lie and still does lie within the said lands and tenements called P. and within the said township of H. and that no determination hath been made by any two justices of the peace, according to the form and effect of the said act of parliament, passed in the 47th year aforesaid, what part or parts of the said new road should be repaired by the respective parties interested therein, and liable to repair the same respectively; and this the said A. B. and C. D. are ready to verify, wherefore they pray judgment, &c.

And now, that is to say, on, &c. ——— come A. B. and C. D. two of the inhabitants of St. Giles, by ———, their attorney, and having heard the said presentment read on behalf of themselves and the rest of the inhabitants of the said parish of St. Giles say, that they do not apprehend that our sovereign lord the king will, or ought any further to prosecute or impeach the inhabitants of the said parish of St. Giles, on account of the said premises specified in the said presentment, because they say, that since the making of the statute made and passed in the 46th year of the reign of our said lord the king, entitled “An Act, &c.” [set out the title of the act.] The commissioners for the improvement of the said city of Norwich duly authorized to carry the said act into execution, having before and at the time of the committing of the said offence in the said presentment mentioned, raised sufficient money, and in and by virtue of the said act to answer and defray the charges and expenses of obtaining and passing the said act, and carrying the same into execution, have, as such commissioners as aforesaid, been used and accustomed to repair and amend, and of right ought to have repaired and amended, and still of right ought to repair and amend the said common foot and bridle way by the said presentment supposed to be out of repair when and so often as occasion shall require; and this the said A. B. and C. D. two of the inhabitants of the said parish of St. Giles, for themselves and the rest of the inhabitants of the said parish are ready to verify, wherefore they pray judgment, and that the inhabitants* of the said parish of St. Giles, may be discharged of the said premises in the said presentment mentioned and dismissed by the court, &c.

Plea to indictment against parish for not repairing highway that commissioners under a paving act are liable.

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And C. E. and J. D. two of the inhabitants of the said parish of the Holy Trinity for themselves and the rest of the inhabitants of the said parish, by I. T. their attorney come, and having heard the said presentment read, say that they do not apprehend that our sovereign lord the king will, or ought, any further to prosecute or impeach the inhabitants of the said parish of the Holy Trinity, on account of the premises mentioned in the said presentment, except as to the said highway in the said first count mentioned, because

Plea to a presentment by inhabitants of a parish confessing the first count, and as to the others pleading exemption from liability

ship for not repairing a highway that certain persons ought to repair particular parts ratione tenuræ. (o)

[* 558]

habitants of the said township, except E. F. and G. H. (the parties charged as liable) come here into court, and having had oyer of the said indictment, say, that they and the rest of the inhabitants of the said township (except as before excepted) ought not, by reason of the premises, to be further prosecuted, because as to part of the said highway in the said indictment described to be in decay, to wit, from the east end of Craven Bank, in the said indictment specified to a certain place in the said township there, called the head of the ———, containing in length five hundred and forty-four yards, they say, that the said E. F. by reason of his tenure of certain lands and tenements, called B. C. and M. lying and being in the said township, ought to repair and amend that part of the said highway last above described, so supposed to be in decay, when and as often as there should be occasion; and as to another part of the said highway so supposed to be in decay, to wit, from the aforesaid place in the said township, called, &c. to a certain other place in the said township, called, &c. containing in length nine hundred and seventy-three yards, they say, that the said G. H. by reason of his tenure of certain lands and tenements, called A. and B. lying and being in the said township, ought to repair and amend; that part of the said highway last above described, so suffered to be in decay (so as to other parts which should be repaired by I. K. L. M. &c. respectively) and as to another part of the said highway so supposed to be in decay, to wit, from the said place called, &c. in the said township, to the said, &c. in the said township in the said indictment mentioned, called, &c. containing in length seven hundred* yards, being the residue of the said highway in the said indictment described to be so in decay; they further say, that the said A. B. by reason of his tenure of certain lands and tenements, called L. and M. lying and being in the said township, ought to repair and amend that part of the said highway last above described, so supposed to be in decay, when and as often as there should be occasion; without this, that the inhabitants of the township of G. aforesaid, the common highway aforesaid, in the said indictment supposed to be in decay as aforesaid, ought to repair and amend, when and so often as it shall be necessary (p), and this they are ready to verify; wherefore they pray judgment if they and the rest of the inhabitants of the said township of G. (except before excepted) ought to be further prosecuted

(o) See other precedents of pleas that particular persons are bound ratione tenuræ to repair. See Cro. C. C. 39. 4 Wentw. 192, 171, 184. 6 Wentw. 411. Starkie, 719. As to these pleas

see ante 1 vol. 472 to 478.

(p) The traverse is proper here, as the township is not of common right bound to repair. See ante 543. n. b.

by reason of the not repairing and amending of the said highway, &c.

In a plea, settled by an eminent crown lawyer, there was inserted:—"as the said J. F. and all those who held the said lands and tenements for the time being, from time whereof, &c. ought, and were used and accustomed, and of right ought to do, and the said C. Z. still might and ought to do." *Tr.* 1808.

And now, that is to say, on Wednesday next after the Plea, that a octave of St. Hilary, in this same term, before our said lord the king at Westminster, come W. B. and J. S. two of the inhabitants of that part of the said parish of C. which lies in the said county of G. by H. D. their clerk in court, and having heard the said indictment read on behalf of themselves and the rest of the inhabitants of the said part of the said parish of C. except certain persons called and known by the name of the master, wardens, and commonalty of a certain society of merchant venturers of the city of Bristol, say that they do not intend that our sovereign lord the king will, or ought, any further to prosecute or impeach any of the inhabitants of the said part of the said parish of C. except as before excepted, on account of the said premises mentioned in the said indictment, because they say that the said master, wardens and commonalty, by reason of their tenure of certain lands lying and being in the said part of the said parish of C. which lies in the said county of G. and adjoining to that part of the said highway so described to be in decay and out of repair as aforesaid, ought to have repaired and amended, and still ought to repair and amend the same when and so often as occasion shall require,* as the said master, wardens, and commonalty, and all those who hold and have held the said lands for the time being, have done and of right ought to do, and the said master, wardens, and commonalty, still of right ought to do, (r); and this the said W. B. and J. S. two of the inhabitants of the said part of the said parish of C. for and on behalf of themselves and the rest of the inhabitants of the said part of the said parish (except as before excepted) are ready to verify: wherefore, &c.

And J. T. esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, having heard the said plea of the said W. B. and

certain society of merchants of the city of Bristol, by reason of their tenure, &c. ought to repair, &c. (q)

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Replication, taking issue on the traverse. (s)

(q) See a similar precedent, *Cro. C. C.* 322, and see as to these pleas in general, ante 1 vol. 472 to 478.

(r) Here, in the *Cro. C. C.* 322, is inserted the traverse, ante 543, n. b. 547, n. f.

(s) In case the traverse is omitted, as in the above precedent, the replication ought to take issue on the prescription, which seems to be the most correct and technical mode of proceeding.

J. S. on behalf of themselves and the rest of the inhabitants of the said part of the said parish of C. which lies in the said county of G. (except as in the said plea is in that behalf above excepted,) saith on behalf of our said lord the king that the said inhabitants of all that part of the said parish of C. which lies in the said county of G. (other than the said persons so in and by the said plea excepted as aforesaid,) by reason of any thing in the said plea above alledged, ought not to be dismissed or discharged of or from the premises aforesaid in the said indictment contained, because the said coroner and attorney, on behalf of our said lord the king, saith (as hath for our said lord the king before been said) that the inhabitants of all that part of the said parish of C. which lies in the said county of G. the said part of the common highway aforesaid so as aforesaid being in decay ought to repair and amend when and as often as need shall require, as in and by the said indictment as above in that behalf charged and alledged; and this the said coroner and attorney of our said lord the king, for our said lord the king, prays may be inquired of by the country; and the said W. B. and J. S. on behalf of themselves and the rest of the inhabitants of the said part of the said parish of C. which lies in the said county of G. (except as in the said plea is in that behalf above excepted,) do the like. Therefore, &c.

Plea that
two persons
are bound
ratione te-
nuræ to re-
pair. (t)
[* 560]

And now come here W. H. and J. H. two of the inhabitants of the parish of, &c. in, &c. in the name of all the inhabitants of the parish of, &c. in their proper persons, and having heard the said indictment, they the said W. H. and J. H. as well for themselves* as for the rest of the inhabitants of the said parish, say that the said highway in the said first count of the said indictment mentioned, and the said highway in the second count of the said indictment mentioned, and the said highway in the last count of the said indictment mentioned, are one and the same high way, and not other or different highways; and the said W. H. and J. H. further say, that our lord the now king will not nor ought any further to impeach, disturb, or prosecute the said inhabitants of the said parish, on occasion of the premises, because, as to part of the said highway in the said indictment specified and mentioned, and thereby supposed to be ruinous, miry, deep, broken, and in decay, for want of due reparation and amendment of the same, that is to say, three thousand seven hundred and fifty feet in length, and sixteen feet in breadth, in the said highway, commencing and beginning from Great Broadclose, in the said parish, and extending from thence in the said parish towards and unto the end of the said highway which opens into the road from M. to S. in the county aforesaid, they the said W. H. and J. H. for themselves and the rest of the in-

(t) Altered from 4 Went, 171, and see ante 1 vol. 472 to 478.

habitants of the said parish, say that A. lord L. long before the said, &c. in the said indictment mentioned, and during all the time mentioned in the said indictment, and whereby it is supposed that the said highway in the said indictment mentioned was ruinous, miry, deep, broken, and in great decay, for want of due reparation and amendment of the same, was and still is seised in his demesne as of fee of and in certain lands and tenements lying and being within the said parish of, &c. commonly called and known by the name of, &c. and by reason of the tenure and occupation of the said lands and premises, with the appurtenances, and the said A. lord L. during all that time ought to have repaired and amended, and yet of right ought to repair and amend the said part of the said highway in this plea before particularly mentioned and described, parcel of the said highway in the said indictment mentioned to be ruinous, miry, deep, broken, and in decay, for want of due reparation and amendment of the same, when and as often as occasion hath required and may require. (u) And as to the residue of the said highway in the said indictment specified and mentioned, and thereby supposed to be ruinous, &c. for want of due reparation and amendment of the same, that is to say, four hundred and fifty feet in length and sixteen feet in breadth, commencing and beginning from the Rye field, in the said parish, and extending from thence towards Tegg's meadow, in the said parish and the said highway and parcel thereof, they the said W. H. and J. H. for themselves and* the rest of the inhabitants of the said parish, say that one J. H. long before the said, &c. in the said indictment mentioned, and during all the said time mentioned in the said indictment, and whereby it is supposed that the said highway in the said indictment mentioned was ruinous, &c. and in decay, for want of due reparation and amendment of the same, was still and is seised in his demesne as of fee of and in certain lands and tenements situate, lying, and being within the parish of, &c. commonly called and known by the name of, &c. and by reason of the tenure and occupation of the said lands and tenements, with the appurtenances, the said J. H. during all that time ought to have amended and repaired, and yet of right ought to repair and amend the said part of the said highway in this plea particularly mentioned and described, parcel, &c. [as before] when and as often as occasion hath required and shall require; (w) and this they the said W. H. and J. H. as well for themselves as for the rest of the inhabitants of the parish aforesaid, are ready to verify, wherefore they pray judgment, &c. [* 561]

(u) Here the traverse was inserted. See ante 543, n. b. 547, inserted.
n. f.

(w) Here another traverse was inserted.

Plea to an indictment for not repairing a pack and prime way—not guilty as to part, and as to the rest that the occupiers of certain farms ought to repair. (x)

[* 562]

And S. T. and S. S., two of the inhabitants of the parish of S. W., in the county of Derby, for themselves and the rest of the inhabitants of the said parish, except W. H., esquire, J. H., esquire, and J. P., by J. H., their attorney, come, and having heard the said indictment read, they the said S. T. and S. S. say, they do not apprehend that our sovereign lord the king will or ought any further to prosecute or impeach the inhabitants of the said parish on account of the premises mentioned in the said indictment; because as to so much of the said common and ancient pack and prime way as lies between the Wrikworth turnpike road and a place in the said way opposite to a place or scite where a certain mill called the Manor mill formerly stood, containing in length three hundred yards, and the whole breadth thereof, they say they are not guilty of the premises in the said indictment laid to their charge in manner and form as by the said indictment is above alledged against them, and of this they the said S. T. and S. S. for themselves and the rest of the inhabitants put themselves upon the country. And as to all the rest of the said pack and prime way in the said indictment mentioned, except the said three hundred yards thereof, they the said S. T. and S. S. say that, from time whereof, &c. the respective owners and occupiers of certain farms and lands lying and being in the said parish of S. W., and respectively adjoining and contiguous to the said pack and prime way, have repaired and amended, and have been accustomed to repair* and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, the said pack and prime way where the same adjoins and lies contiguous to their several and respective farms and lands, when and so often as need hath required and shall require, by reason of the tenure and occupation of their said several farms and lands. And the said S. T. and S. S. in fact say that the said pack and prime way adjoins and lies contiguous to a certain farm and land there, heretofore part and parcel of a certain farm there called Manor farm, now in the possession of the said W. H., and who is now, and at the time in the said indictment mentioned was, the owner and occupier of the said farm, for the length or distance of three hundred and thirty yards; and that the same pack and prime way adjoins and lies contiguous to a certain other farm and lands there, heretofore other part of the said Manor farm now in the possession of the said J. H., and who is now, and at the time in the said indictment mentioned was the owner and occupier of the said last-mentioned farm and lands, for the length and distance of five hundred and thirty yards;

(x) See ante 1 vol. 472 to 478. From Mr. Nicholl's MS.

and that the said way adjoins and lies contiguous to certain lands lying on both sides of the said way, which, at the time in the said indictment mentioned, one W. L., since deceased, was the owner and occupier of, and which are now in the possession of the said J. P., and who now is the owner and occupier of the said last mentioned lands, for the remainder of the said way, being of the length or distance of a hundred and twenty-nine yards, and this the said S. T. and S. S., for themselves and the rest of the inhabitants of the said parish of S. W., except the said W. Hattón, &c. are ready to verify, wherefore, &c.

And M. N. esquire, coroner and attorney of our said sovereign lord the king, in the court of our said lord the king before the king himself, who prosecuteth for our said lord the king in this behalf, for our sovereign lord the king saith, that by any thing in the said plea above alledged, our said lord the king ought not to be barred from prosecuting the said indictment against the said inhabitants of the said parish of, &c. in the said county of, &c. because, protesting that he doth not acknowledge any thing in the said plea to be true for plea in this behalf for our said lord the king saith, that the said E. F. by reason of his tenure of the said lands and tenements in the said plea mentioned, ought not to repair* the said part of the said highway by the said indictment supposed to be out of repair, as in the said plea is above alledged; and this the said coroner and attorney of our said lord the king, for our said lord the king, prayeth may be enquired of by the country, and the said A. B. and C. D. two of the inhabitants of the said parish of ——— for themselves and the rest of the inhabitants of the said parish do the like.

Replication
in K. B. de-
nying the li-
ability ra-
tione tenure
alledged in
the plea. (y)

[* 563]

(y) See a similar precedent, see as to these pleas, ante 1 vol. Starkie, 725, and other forms, 4 472 to 478. Wentw. 177, 6 Wentw. 416, and

[* 564]

SPECIAL* PLEAS AS TO BRIDGES.

Plea, by the inhabitants of a county, that trustees for taking down a bridge, under an act of parliament, are liable to repair, and not the county at large. (a)

Dampier.
[* 565]

And now, that is to say, on Wednesday next, after fifteen days from the feast day of Easter, in this same term, before our said lord the king at Westminster, come J. P. and W. T. two of the inhabitants of the said county, for themselves and the rest of the inhabitants of the said county, except the trustees for taking down the bridge over the river Tone, in the town of Taunton, and erecting a new bridge there, and for enlarging the bridge in Taunton aforesaid, called the Shuttem, after widening and improving the avenues and approaches leading to the said bridges respectively, and for repairing and preventing all nuisances, obstructions, and encroachments in and upon the said bridges, avenues, and approaches respectively, and also for carrying into execution a certain act of parliament made* and passed in the forty-

(a) Ante 1 vol. 472 to 478. This precedent was obtained from the Crown Office, and was settled by a very eminent crown lawyer. It was holden good on demurrer. See a plea by the county, that the bridge is merely a horse and foot bridge, which was holden insufficient on the ground that the county are prima facie liable to repair all public bridges of every description, 13 East. 95, 6. A plea by the county that an individual some years ago erected a mill and dam for his own profit, by which means he deepened the water of a ford, which before was passable, though very inconvenient, and afterwards built the bridge in question, which had always been used by the public; holden insufficient to discharge the county, 2 M. and S. 513. A plea

by the county, protesting that the bridge is not public, setting forth that the crown was seised of a ferry, and bound to maintain it; that Queen Anne built the bridge instead; and that his present Majesty took down the bridge and re-established the original ferry; which were holden to be no grounds of defence, as the bridge was of public use, 12 East. 192. Plea by a parish, that the bridge was formerly only a foot and horse bridge, that an individual widened it, that it thus became of much greater public benefit, and that, therefore, the county are become liable, 4 Went. 169, which seems to be bad as amounting to the general issue. As to pleas to indictments for not repairing bridges in general, see ante 592, 3.

ninth year of the reign of his present majesty, intituled, an act, &c. [set out the title of the act] and enlarging the bridge called Shuttem, both in the town of Taunton, in the county of Somerset, and also for widening and improving the approaches leading to the said bridges, and removing and preventing nuisances and obstructions thereon, by William Samuel Jones, their clerk in court, and having had oyer of the said presentment, say, that they and the rest of the inhabitants of the said county, except as before excepted, ought not by reason of the premises to be further prosecuted, because they say that after the passing of the said act, and after the twenty-fourth day of June, in the year of our Lord 1809, in that act mentioned, and before the first day of July in the said presentment mentioned the said act being then and still in force, the said trustees under and by virtue of the authority and powers vested in them by the said act, and to procure and raise the tolls imposed and payable by the said act, to wit, on the first day of July, in the said presentment mentioned did pull down, and caused to be pulled down, the bridge then, and at the time of the passing of the said act, standing across the river Tone, called Tone bridge, in the said presentment mentioned, and did begin to rebuild the same upon a much larger and more expensive scale than the same was before, and did also begin to widen and alter the approaches leading to the said bridge within one hundred yards of each end thereof, whereby the same bridge, and the approaches thereto, became ruinous, broken, and in decay, and so remained, continually from thenceforth to the making of the said presentment the same bridge remaining incomplete and unfinished, neither the said trustees or any of them, or any other person having rebuilt or repaired the same. And the said J. P. and W. T. further say that the purposes of the said act are not yet carried into execution, to wit, at the parish of Taunton St. James, and Taunton St. Mary Magdalen aforesaid, in the county aforesaid. By reason of which said premises the trustees aforesaid were and are bound, and of right ought to repair the same bridge, and the said approaches thereto during the continuance of the said act in force, [without this, that the inhabitants of the said county, the said bridge, and the said approaches thereto in the said presentment mentioned during the continuance of the said act in force, ought to repair and amend when and as often as it shall be necessary, in manner and form as in and by the said presentment is above supposed (b)] and this they are ready to verify; wherefore they pray judgment, if they the said J. P. and W. T. and* the rest of the inhabitants of the said county, except as before excepted, ought

[* 566]

(b) Quære as to this traverse, see ante, 543, n. b,

Plea that
proprietors
of a certain
navigation
ought to re-
pair bridge,
they having
rendered it
necessary.^(b)

to be further prosecuted, by reason of not repairing and amending the said bridge and the said approaches thereto.

[Commencement as in the last precedent.] That long before the time of erecting the said bridge, and at the same place, and in the same part of the river Medway where the said bridge was erected, there was, and from time immemorial, until the deepening of the water as after mentioned, there had been a public highway through a ford in the river Medway, in the said parishes of E. B. and W. F. in the county aforesaid, for all the liege subjects of the king, to pass and repass with their cattle and carriages at all times of the year at their free will ; and further that the company of proprietors of the navigation of the river Medway, afterwards and before the erecting of the said bridge, to wit, on, &c. for the purpose of the navigation of the said river, and for the profit of the said company, did greatly deepen the water in the same place and part of the river Medway where the said ford and highway before then was and had been for all the time aforesaid, and where the said bridge was afterwards erected as after mentioned ; and did by such deepening of the water destroy the said ford, and render the said highway wholly impassable ; and it then and there became and was necessary for the liege subjects of the king, their cattle, and carriages, and the duty of the said company to erect a bridge at the same place over the river Medway ; whereupon the said company afterwards, to wit, on, &c. did first erect the said bridge in the indictment mentioned in the same place and part of the river Medway, where the said ford and highway, before the said deepening of the water of the said river, was, and had been for all the time aforesaid, and in the room and stead of the said highway and ford, as a convenient, fit, and useful means of passage for the liege subjects of the king, by themselves, and with their cattle and carriages over the river Medway. And the said highway thereupon, to wit, on the day and year last above mentioned, was altered by the said company from and out of its ancient course through the said ford unto and over the said bridge, and from thence hitherto has been carried and gone unto and over the said bridge. By reason of which last mentioned premises, the said company of proprietors of the navigation of the river Medway always, from the time of the said bridge being so erected as aforesaid, hitherto have repaired and amended, and have been liable* to repair and amend, and during all that time, and still of right ought to

[* 567]

(b) This was the plea in 13 See 2 M. and S. 518. See as East. Rep. 221, where it was to these pleas in general, ante held good. See a similar plea 564, n. a. and 1 vol. 472 to held good, 13 East. Rep. 318. 478.

have repaired and amended the said bridge when and so often as occasion hath required or shall require. And this, &c. [conclusion as ante 564.]

That the inhabitants of the said county ought not to be charged with the repairing and amending of the said bridge, because they say that otherwise, to wit, by a certain inquisition taken for our said lord the king at C. in the said county on, &c. before M. H. knight, then chief justice of our said lord the king assigned to hold pleas before the king himself, T. T. knight, then and still being one of the justices of our said lord the king, assigned to hold pleas before the king himself, and W. H. baronet, and others their companions, &c. (setting out the caption, the indictment, conviction, and judgment) as by the record and proceedings thereof, which our said lord the king for the correction of error hath lately caused to come into the court of our said lord the king before the king himself, now remaining in the said court of our said lord the king here at Westminster, plainly appears. And that the said A. B. and C. D. two of the inhabitants of the county aforesaid, in the name of all the inhabitants of the said county further say, and will verify, that the said bridge in the record of the said judgment mentioned, and the bridge in the information aforesaid mentioned and expressed, is one and the same bridge, and not another and different bridge, and that the judgment aforesaid yet stands and remains in all respects in full force, vigour, and effect, not reversed or otherwise impeached, and this the said A. B. and C. D. two of the inhabitants of the county aforesaid are ready to verify; wherefore they pray judgment, and that the said inhabitants of the county of C. may be discharged of the premises aforesaid contained in the said information, and by the court here may be dismissed.

(c) See similar forms, Starkie, 721. Trem. P. C. 205, where it is said the plea was holden bad on demurrer, because the bridge mentioned in the information was in one parish, and the bridge specified in the former indictment in another. See ante 1 vol. 472 to 478.

[* 568]

MISCELLANEOUS* PLEAS.*

Plea to an indictment for not repairing the gaol of the city of Gloucester, that the inhabitants of the city ought to repair, and traverse that the mayor, &c. ought to repair. (a)

[* 569]

And J. W. J. and H. W., gentlemen, two of the said burgesses of the said city of G. on behalf of the said mayor and burgesses of the said city, in their own proper persons, come into court here, and having heard the said indictment read, say, that our said lord the king ought not further to prosecute the said indictment against the said mayor and burgesses, because they say, that true it is that the said gaol is ruinous as in the said indictment is mentioned, but the said J. W. J. and H. W. further say, that from time immemorial, before the time in the said indictment mentioned, the inhabitants of the said city, and county of the same city, of right ought to have repaired and amended, and have used and been accustomed, and still of right ought to repair and amend the said gaol so being in decay when and as often as occasion should or shall require. Without this, that the said mayor and burgesses of the said city and county of the same city from time immemorial, as owners of the said gaol, ought and have been accustomed by right and ancient usage to repair and amend, and still of right ought to repair and amend the said gaol when and as often as occasion should or shall require in manner and form as in and by the said indictment is above supposed; and this the said* J. W. J. and H. W. are ready to verify, wherefore they pray judgment, and that the said mayor and burgesses by the court here may be dismissed and discharged from the said premises in the said indictment mentioned, &c.

(a) See indictment, ante 3 vol. and see form Cro. C. C. 318.

* See a plea of son assault demesne, Trem. P. C. 269, and a plea to an indictment for not executing an office, that the defendant is a protestant dissenting teacher, in pretended holy orders, and pleads his exemption under the toleration act, with a replication denying the allegations of the plea, 4 Went. 339 to 345, and for the law on this subject, see Burn's Ecclesiastical Law, Dissenters, as to these special pleas, ante 1 vol. 472 to 478.

And M. P. esquire, clerk of the assizes and clerk of the crown of our said lord the king, of and for the said city of Gloucester and county of the same city, who for our said lord the king in this behalf prosecutes, says, that the said mayor and burgesses by reason of any thing in the said plea above alledged, ought not to be dismissed or discharged from the premises in the said indictment mentioned, because he says, that the said mayor and burgesses of the said city and county of the same city from time immemorial, as owners of the said gaol, ought and have been accustomed by right and ancient usage to repair and amend, and still of right ought to repair and amend the said gaol when and as often as occasion should or shall require; and this the said M. P. clerk of the assizes and clerk of the crown of our said lord the king as aforesaid, who for our said lord the king in this behalf prosecutes, prays may be enquired of by the country, and the said J. W. J. and J. H. do so likewise. Therefore, &c.

And the said T. S. comes into court here on, &c. in his proper person, and having heard the presentment aforesaid read says, as to the premises in the said presentment specified and therein laid to his charge, that he is not guilty thereof in manner and form as is therein alledged against him, and of this he puts himself upon the country, and J. B. clerk of the said commission of sewers on the behalf of our sovereign lord the king doth so likewise. Therefore, in pursuance of the laws and statutes of sewers, and by virtue of the aforesaid commission of sewers of our lord the king duly issued under the great seal of Great Britain on, &c. still in force, and extending into the respective counties of Essex, Middlesex, and Kent, B. G., S. W., C. S., W. R., P. A., and J. G., esquires, commissioners in the said commission named, three whereof, to wit, the said B. G., S. W., and C. S., are therein and thereby nominated and appointed will require the sheriff of the said county of Essex, that he return, summon, and cause to appear twelve honest and substantial men of his bailiwick, as well within liberties as without, qualified to serve on juries, and by whom the truth may be best known, to be and personally appear on Monday, the twenty-first day of January, instant, at ten of the clock* in the forenoon, at the sign of the Green Man in Great Ilford, in the county of Essex, before them, or six of them, or such other six of his majesty's commissioners in the said commission named (three of them being of the quorum,) who shall be then present to make a jury of the county to try the issue aforesaid, and whereof, as well the said John Bradley for

to the above
plea takes is-
sue on the
traverse. (e)

Plea to a pre-
sentment by
commission-
ers of sewers,
for not re-
pairing part
of a wall
which was
blown up by
the spring
tides, and
which de-
fendant, by
reason of his
tenure was
bound to re-
pair. (f)

[* 570]

(e) See as to these special 606, and form 4 Wentw. 191, pleadings, ante 1 vol. 472 to 478. and see as to these special pleas

(f) See the presentment, ante ante 1 vol. 472 to 478.

our sovereign lord the king, as the said Thomas Spearman have put themselves upon the country. The same day is given to the parties aforesaid there, &c.

[* 571]

DEMURRERS* TO PLEAS, &c.

Demurrer in K. B. to plea to indictment removed by certiorari, or originally preferred there. (g)

And sir J. B. knight, coroner and attorney of our said present sovereign lord the king in the court of our said lord the king before the king himself, who prosecutes for our said present sovereign lord the king in this behalf, having heard the said plea of the said A. B. and J. G. in manner and form aforesaid above pleaded in bar for our said lord the king says that for any thing by the said A. B. and J. G. in their said plea above pleaded alledged, our said lord the king ought not to be precluded from proceeding against the said A. B. and J. G. by reason of the premises in the said indictment specified, because he says that the said plea of the said A. B. and J. G. by them above pleaded, and the matter therein contained, are not sufficient in law to preclude our said present sovereign lord the king from proceeding against the said A. B. and J. G. by reason of the premises in the said indictment specified, to which said plea the said coroner and attorney of our said present sovereign lord the king who prosecutes as aforesaid, hath no need, nor is he bound by the law of the land in any manner to answer, and this he is ready to verify; wherefore, for want of a sufficient plea in this behalf the said coroner and attorney of our said sovereign lord the king, who prosecutes for our said sovereign lord the king, in this behalf prays judgment; and that the said A. B. and J. G. may be convicted of the premises in the said indictment charged against them.

(g) See other form, 4 Went. 181. See as to demurrers, ante 1 vol. 449.

And the said ——— and ——— say that the said plea by Joinder to them pleaded in bar, and the matters therein contained, are the above sufficient in* law to preclude our said sovereign lord the demurrer. king from proceeding against the said A. B. and J. G. by (h) [* 572] reason of the premises in the said indictment specified, which said plea, and the matter therein contained, the said A. B. and J. G. are ready to verify. And because the said coroner and attorney of our said sovereign lord the king, for our said lord the king, hath not denied or in any wise answered the said plea of the said A. B. and J. G. but hath wholly refused to admit the verification thereof, the said A. B. and J. G. as before pray judgment of the court here, and that they may be dismissed and discharged of the premises in the said indictment above specified.

And the said sir T. F. knight, coroner and attorney of our Demurrer to lord the king, in the court of our said lord the king, before plea, to an the king himself, who for our said lord the king prosecutes information. (i) in this behalf, for our said lord the king says, that our said lord the now king, by any thing by the said J. S. above in pleading alledged, ought not to be barred from having his said information against him the said J. S. because he says that the said plea of the said J. S. in form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to bar our said lord the king from having his said information. Wherefore, for want of a sufficient answer of the said I. in this behalf, he prays judgment, and that he may be convicted of the premises in the said information above specified.

And the said J. S. by his said attorney, wherefore, in as Joinder to much as the said coroner and attorney of our said lord the the above king, for our said lord the king doth not answer the said plea, nor in any wise deny the same, but altogether refuses to admit the said verification; which said plea, and the matter in the same contained, he the said J. S. is ready to verify, prays judgment, and that he may be dismissed by the court here from the premises.

(h) See ante 1 vol. 449.

Saund. 273. See ante 1 vol. 449.

(i) See a similar form, 1

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